

Government Programme 2010-2015

Debates on the Presidential Address

Speech by the Hon. Attorney General

27 July 2010

Mr. Speaker Sir, five years ago, I addressed you as a Government backbencher freshly elected and today I feel privileged to address you as Attorney General on the Presidential address debates outlining the Government programme 2010-2015. I thank Dr. the Hon. Prime Minister for the trust placed in me. A special thought goes to my former constituency Plaine Magnien/Mahebourg.

Let me at the very outset congratulate you on your election as Speaker of the National Assembly for a second consecutive term and the Deputy Speaker for his election. I also seize the opportunity to congratulate all members of this August Assembly and hope that they will, through their participation ensure fruitful deliberations of the House. Our guiding motto of both Government and Opposition should be “service to the nation”.

This is the first time, Mr. Speaker, Sir, that a Prime Minister has won two consecutive mandates and an increased majority for the past two decades. The electorate has voted both in the urban and rural areas for the “Alliance de l’Avenir” electing Members of Parliament from all components of our society to form a representative Government.

In our electoral system, general elections are meant to choose a Prime Minister and the population has at large voted for Dr. Navin Ramgoolam and “jamais deux sans trois”, the Hon. Leader of the opposition has been rejected again in 2010 like he was in 1983 and 2005. The writing is on the wall, Mr. Speaker Sir, the MMM opposition is not a credible alternative and as the saying goes “vox populī vox dei” “la voix du peuple c’est la voix de Dieu” and, God willing, the MMM is again in opposition.

The MMM filed what it called “electable candidates” in some rural constituencies, thought it would win all seats in the urban areas and form the Government. The election results speak for themselves. The electorate rejected the policy of “divide and rule” as advocated by our then colonial masters.

Mr. Speaker, Sir, it is unfortunate that a section of the press played a partisan role during the elections. The role of the media is to report news and not to create news. It is unfortunate to say that in many cases, a certain section of the media has become a business and yellow journalism is the order of the day. The ultimate role of the media is to report news and to use money to achieve that goal is perfectly legitimate but when the goal is to make money and the medium is news, then there is a problem. Thus Mr. Speaker, Sir, the pressing need for a “Media Commission”.

Mr. Speaker, Sir, I joined politics at the very early age of 24 and for a youngster there was no choice, but to join the Mauritius Labour Party. This Party has been at the root of each and every major political, social and economic development in the country. Today with the PMSD and MSM as partners we have pledged “modernity, equality and unity” to the country. Projects which were started under the last mandate will be completed during this mandate. I am here making reference to road projects all over the island, the Jin Fei project, the construction of the second terminal at the Sir Seewoosagur Ramgoolam International Airport, the new city in Highlands and many others.

I wish to congratulate my predecessor Rama Valayden for his achievements. However, I wish to add that, being two individuals there will obviously be difference both in style and in substance.

Since my assumption of office, Mr. Speaker, Sir, I have held a number of consultations namely with the Law Reform Commission, the Bar Council, the Law Society, the Chambre des Notaires, the Association of Court Ushers, the students from the Council of Legal Education among others to find ways and means to improve our legal system.

I believe Mr. Speaker Sir, that our Judges Rules relating to criminal evidence and procedure is completely outdated and need to be reviewed. My office is currently working on the changes that need to be brought to police practices relating to arrest, custody and interrogation. A new legislation will be introduced to take into account the development in the law, in particular the reinforcement of rights of individuals, be it for suspects or victims. I believe that an accused party should be given all the facilities to prove his innocence but once a Court of law has found him guilty beyond reasonable doubt, there should be legal provisions to provide for harsh sentences.

Let it be known, Mr. Speaker, Sir, by one and all that just like Dr, the Hon. Prime Minister, I am in favour of the reintroduction of capital punishment in cases of most heinous crimes, and I am also against remission for serious crimes like sexual offences, drug dealing and murder.

Mr. Speaker, Sir, the Attorney General’s Office has played an important role in overhauling the Mauritian Justice System, through the implementation of a substantial part of the Mackay Report 1997 as updated in 2006. The criminal sessions of the Supreme Court are now being held all the year round, resulting in a substantial decrease of remand time for those prisoners. A Commercial Division and a Family Division of the Supreme Court have been set up and these have greatly assisted in the speedy disposal of cases. We are going to continue with those reforms and implementation of the Mackay recommendations. Legislation will be introduced to make the Court of Appeal and the High Court a reality. We shall also bring in legislation with a view to have within the High Court, a Family Division that has the required support services. We shall also continue to work towards the simplification of Court procedures to ensure that a greater number of people have speedy access to our justice system. It is worth noting that the Judicial Committee of the Privy Council has sat in Mauritius on two occasions namely in 2008 and 2010.

Mr. Speaker, Sir, the International Arbitration Act 2008 came into force in January 2009. An agreement has been signed with the Permanent Centre of Arbitration and the PCA will soon have a branch in Mauritius.

We have also engaged ourselves in reviewing of the Mauritian Civil Law and Procedure with a view to include the evolution of the law in various areas covered by our Civil Code known as Code Napoleon, including matters relating to divorce.

Mr. Speaker, Sir, I have already given instructions to the Law Reform Commission to look at the updating and reviewing of the Code Civil Mauricien, Code de Procédure Civile and the Code de Commerce. These will also be translated into English, given that a number of foreign firms are establishing themselves in Mauritius, following the amendment to the Law Practitioners Act in 2008. This will no doubt increase the ease of doing business in Mauritius as well as assuring a better understanding of our legal and judicial system. It is worth mentioning that the Law Reform Commission submitted to me a preliminary review of the codes mentioned last week but Honourable members will appreciate that this task will be long and tedious. I am here commending the Law Reform Commission for the work it is doing with limited resources.

Mr. Speaker, Sir, as Government backbencher, I raised the problems faced by the students of Council of Legal Education a number of times. It cannot be accepted that students following a professional course have no manuals, no proper classroom, no library, no full time lecturers and other adequate facilities. I am personally working together with my officers to find ways and means to restructure the course to make it practice-based in line with international standards. I met Hon. Judge Paul Lam Shang Leen, the chairperson of the Council of Legal Education and he is agreeable that the course be reviewed. In this context, I also have already had discussions with Mr. Ian Brookfield from the University of Cardiff and with Mr. Deveral Tapps from the University of Northumbria. My colleague, Hon. Rajesh Jeetah, Minister for Tertiary Education and Scientific Research has gladly agreed to the setting up of a department for Professional Legal Studies at the University of Mauritius.

Mr. Speaker Sir, I intend to introduce legislation in order to review and intensify the training of lawyers after completion of their law degree through the introduction of the concept of Continuing Professional Development (CPD). Also the method of pupillage will be reviewed so that prospective barristers are better equipped when they call to the Bar.

Mr. Speaker, Sir, the institutional set up for the training of Judges, Magistrates and Law Officers is underway and, God Willing in the near future we will have a fully fledged institute that will conduct induction courses for Judges and Magistrates and also conduct continuous training for all law officers. I am again personally working on this project together with my officers and Sir Victor Glover former Chief Justice.

Mr. Speaker, Sir, reform of the legal profession will, therefore, be pursued to ensure that it has the right and appropriate legal structure to meet the needs of liberization and maximize on the opportunities that Globalisation brings. The Bar Council Act and the Law Society Act will be amended to provide for a Registrar

vested with administrative responsibilities. I have already started discussions with the relevant stakeholders on these issues.

Mr. Speaker, Sir, the office of the Director of Public Prosecution now operates with its own budget. The Law Reform Commission has been reinforced with the coming into force of the Law Reform Commission Act 2005. My office is already studying amendments to the existing legislation to further reinforce these institutions.

Mr Speaker, Sir, the Sexual Offences Bill which was introduced in 2007 is being revisited. I can recall when the Bill was to be read for a second time, not being agreeable with certain provisions, I together with certain friends expressed our concern and the Bill was remitted to a select committee. This shows the democratic way in which our party and our Government function.

As Honourable members would recall the report of the select committee could not be tabled before the dissolution of the National Assembly due to unforeseen circumstances. As I stated earlier, my office is currently reviewing the Bill, once this is done and cabinet approval obtained, the bill will be introduced in the National Assembly.

Mr. Speaker, Sir, the Divorce and Judicial Separation (Miscellaneous Provisions) Bill introducing the concept of divorce by mutual consent has been circulated for public consultation and this expires on Friday the 31st July, 2010. I have already held a meeting with my officers and requested them to start working on the proposed changes to the Bill, if any, in the meantime.

Mr. Speaker, Sir, a draft of the Asset Recovery Bill is ready and a delegation from the International Monetary Fund will be here in August. Following consultations, the Bill will be finalised. The main objective of this Bill is to prescribe the procedure to enable the State to recover assets which are proceeds on instrumentalities of crime or terrorist property, where there has been no prosecution but it can be proved on a balance of probabilities that the property represents proceeds of unlawful conduct.

Mr. Speaker, Sir, during his speech at the inauguration of the seat of the Bar Council, Dr. the Hon. Prime Minister requested me to find ways and means to introduce the concept of pro bono work among lawyers. I am pleased to inform the House that my office is currently working on a scheme together with the Bar Council to make the wish of the Hon. Prime Minister a reality. I also intend to bring about legislation to:

- (a) review the practice of provisional information;
- (b) introduce the concept of spent convictions;
- (c) review the practice of disclosure in criminal proceedings.

Mr. Speaker, Sir, the Law Reform Commission has submitted to me a report on witnesses who have been intimidated. We have had working sessions in my office and have planned another meeting tomorrow the 28th July 2010 with the Director of Public Prosecution before any legislation is drafted.

Honourable members will note that the Attorney General's Office is the only institution that has regular and constant interactions with all the three limbs of the

State, namely Parliament, the Judiciary and the Executive. Generally, the Civil Advisory and Litigation Unit of the office services all departments of the Government in relation to legal advice and representation. It thus ensures the day to day functioning of the state in accordance with the Rule of Law. We normally attend to some 40 to 50 requests for legal advice on a weekly basis excluding representation before courts, tribunals and committees.

The Drafting and Law Revision Unit plays an important role in the implementation of Government Policy through the passing of legislation. The importance and central role of the Attorney General's Office as a legal service provider to the Government needs to be recognized and reaffirmed.

Mr. Speaker, Sir, there is a wrong perception among a section of the population. Let me make it clear that the Attorney General does not and cannot interfere in Court cases, police enquiries nor can he give instructions to the Director of Public Prosecution. According to the Constitution, the Attorney General is only the principal legal adviser to Government.

The internal structure of my office has been reviewed. A new schedule of duties came into force yesterday the 26th July 2010 to reinforce our capacity to deliver efficiently and to internationally recognized standards.

Mr Speaker, Sir, the Attorney General's Office needs more office space to better meet the oncoming challenges. It has been brought to my attention that the office of the Director of Public Prosecution will be moving to new premises soon and my colleague the Hon. Mookeshwar Choonee, Minister of Arts and Culture has happily agreed to help us with the refurbishment of the old prisons premises. These will help us to have more office space but it is proposed that the Attorney General's Office should have its own building. We have already worked on a plan and the cost estimate and these will be submitted to the Ministry of Finance shortly. We should provide our office with adequate infrastructure so that it becomes a Centre of Excellence.

Honourable members will now deduce how much has been done over the past two and a half months, yet much remains to be done, but we are determined to persevere and go ahead to fulfill our objectives.

Thank you.