

Mr Speaker Sir,

One of the challenges faced by Government today is how to develop a meaningful strategy of law reform to ensure that laws on our statute books are not cocooned in a past which is divorced from the current social and economic realities. The law, Mr Speaker Sir is not an end in itself, it is an instrument of social progress, a means of achieving a just and equitable society and for that to happen it must adapt to the changing needs of society.

Ignorance of the law, as the maxim goes is not an excuse. It is of utmost importance that our laws should be both understandable and accessible. As Attorney-General, it is my firm intention to see to it that our laws are drafted in a style and in a language which is familiar and instantly intelligible to the ordinary Mauritian. Admittedly there are laws which may be highly technical in content but what is important is that those persons who are concerned by

a particular law should be able to comprehend the law without unnecessary difficulty.

Mr Speaker Sir, when we compare our Law Reform Commission Act to similar legislation in other parts of the Commonwealth, we cannot help being surprised at the brevity of our law and the inadequacy of its provisions to meet the statutory functions of the Commission as it exists to-day. The structure of the Commission provided by the present Act is minimal if not inexistent. There is not one single word on how it operates and its effectiveness seems to depend solely on the goodwill of its members.

The experience of many commonwealth jurisdictions has taught us that it is important to put in place institutional arrangements for tackling law reform in the interests of the people. Admittedly the primary responsibility of law reform rests with Government, but taken up as it is with current political matters, this

role can only be fulfilled by a law Commission adequately structured and staffed to fulfill its mandate.

The Law Reform Commission Bill provides for a newly structured Commission and addresses the defects of the present legislation. The Commission will henceforth be headed by a Chief Executive Officer and will have its own budget. Clause 4 of the Bill sets out the functions of the Commission. It is an ambitious one since the Commission shall have to review in a systematic way the law of Mauritius and make recommendations for the reform and development of the law. Under Clause 4 it is also provided that the Commission shall advise the Attorney General on ways in which the law of our country can be made as understandable and accessible as possible. Mr Speaker I have already stated earlier that there are many areas of our laws that need to be reviewed and consolidated in view of the difficulties that are being encountered by legal practitioners to state the law with certainty. I have in

mind the Income Tax Law, the Sugar Industry Efficiency Act, the Investment Promotion Act and its accompanying regulations, the Dangerous Drugs Act among others.

Let me seize this opportunity Mr Speaker Sir, to inform the Honourable Members that following complaints received from members of the legal profession, I have decided that a new set of revised laws shall be prepared and published under the supervision of law officers. I have the consent of the Honourable Prime Minister and the work has already started. For the first time in our history we shall have our laws published in a loose leaf format to meet international standards. I also intend to set up a permanent law revision unit to ensure continuity in the publication of revised laws at regular intervals. I shall come up with new legislation for that purpose if need be.

Coming back to the Bill, under clause 5 the Commission is given such powers as are reasonably necessary to enable it to carry its functions. Clause 5 enables the Commission to initiate proposals for the review, reform or development of any aspect of the law of Mauritius. In determining which areas of the law require reform, the Commission will be guided by the views of judges, lawyers, Government departments and the general public. It is important for the country that we should be listening to all stakeholders in a structured way with maximum involvement of the community at large. Once the proposals are considered together with those that are made by the Attorney-General the Commission will then be in a position to propose a comprehensive programme of law reforms.

Once the programme of law reforms is finalized, the Commission will have to initiate, sponsor or carry out such studies, research or consultations as it deems fit to be in a position to formulate proposals for reform.

In a number of fields, the mechanism for undertaking this work is already in place. This is the case for labour law, where the Labour Advisory Board, established under the Labour Act, has the duty to consider and advise the Minister of Labour & Industrial Relations on any matter affecting employment and labour referred to it by the Minister. In the field of company law, there is the Company Law Advisory Committee. In many other fields, there is no such mechanism in place. This is especially true of areas which cut across the jurisdiction of a number of ministries. This is where the Commission comes in. It will be the work of the Commission to carry out the necessary research and consultation in those areas in order to be in a position to formulate proposals.

The Commission will, on the basis of the research conducted, produce a consultation paper which will set out the existing law that is being reviewed, its defects and the various possible solutions and invite

comments thereon. Under Clause 5 (2) (c), the Commission has the power to invite all relevant interest groups and the general public to submit their views to the Commission on the proposed recommendations. This exercise will enable the Commission to draw on the experience of its members and on the experience of a wider public, especially those that are more likely to be affected by a change in that area of the law. The Commission may hold its hearings public if it so chooses, set up an advisory panel or even organize workshops.

Mr Speaker Sir, laws that are rooted in effective public consultation are indeed more likely to enjoy public respect and to function effectively. Far too often we have seen in this very Assembly Bills based on half baked ideas that are adopted in haste, without any prior consultation with the stakeholders, abandoned the very next year, and replaced by yet further solutions each claimed to be the perfect one. The complexity of a number of statutes defies belief. And

so to the bewilderment of the public, practicing lawyers and judges the process continues. As legislators Honourable Members, we bear the responsibility of ensuring that we do not choke our justice system with ill-considered legislation. Hence the need for the participation of the community.

Under Clause 7 of the Bill, the community shall henceforth be called upon to play a more prominent role in the functions of the Commission. The Bill now expressly provides that the Attorney-General shall appoint two members of the Commission from the civil society. Other members of the Commission shall be the Solicitor-General or his representative, a representative of the Judiciary to be appointed by the Chief Justice, a full-time member of the Department of Law of The University of Mauritius to be appointed by the Attorney-General after consultation with the Vice-Chancellor of the University. Under clause 7 it is also provided that a representative from each branch of the legal profession shall be appointed as member by

the Attorney-General after consultation with the relevant professional body.

In order to utilize the expertise of persons outside the Commission for the purposes of advising and assisting the Commission in any particular project, clause 8 enables the Commission to establish an advisory panel presided over by a member and consisting of persons having specialized knowledge in the matter to be studied.

There is not a single law reform commission abroad which operates without a full team of professional staff of its own. The English Law Reform Commission has five Commissioners working full time at the Commission. They are supported by a team of twenty members from the Government Legal Service, five Parliamentary Counsel and about fifteen research assistants. The South African Law Reform has seventeen State Law Advisers. The Malawi Law

Commission has a personnel consisting of five lawyers and some thirty supporting staff.

The Commission does not have the pretension of having such an extensive team of professional staff. However in order for it to function it will require a minimum of professional staff. Clause 11 of the Bill provides that the Commission shall have a fulltime Chief Executive Officer who shall be a legally qualified person and shall be responsible to conduct all research to be undertaken by the Commission in the discharge of functions and for the drafting of all reports to be made by the Commission.

The Commission is accountable to the Attorney-General and ultimately to the National Assembly. However, in the performance of its statutory functions, it does so as an independent body. In order to ensure this independence it is important that it should be given its own budget to recruit its staff.

Under clause 12, provision has been made for the appointment of a Secretary responsible for the administration of the Commission under the supervision of the Chief Executive Officer. The Secretary will also have the responsibility to take minutes of all the proceedings of the Commission. The Commission is also empowered under clause 13 to appoint on such terms and conditions as it may determine such persons as it considers necessary for the efficient carrying out of its functions. Clause 14 gives similar powers to the Commission to engage persons with suitable qualifications and experience as consultants to the Commission.

The Commission shall be funded by such funds as the National Assembly shall appropriate and such other sum as may lawfully accrue to it. Clause 15 of the Bill establishes a General Fund for such purposes.

Mr Speaker Sir,

Society and the legal world have changed. The importance of statute law as a dominant source of law cannot be underestimated. It is therefore inevitable that our National Assembly will be a major player in the field of law reform. Experience has taught us that for law reform to be meaningful, we as legislators need the full collaboration of all the three organs of the state: legislature, executive and judicial. It is through such dynamic interaction that we can guarantee laws that are accessible to the population at large and above all laws that adapt to the current social and economic realities of society. Let me end by quoting the President of the Supreme Court of Israel who sums up so beautifully why laws should not remain static (Quote): *“Like the eagle in the sky that maintains its stability only when it is moving, so too is the law stable only when it is moving”* (Unquote).

With these words I commend the Bill to the House.