



Mise au point

False and defamatory allegations against the Solicitor General and State Law Officers reported in Weekend newspaper of 3 July 2016 and in L'Express of 14 July 2016

1. The law officers of the Attorney General's Office (AGO) met on Thursday **14 July 2016** and unanimously expressed their utter dismay in relation to the above allegations made by Mr. Trilochun in the above publications which, in their view, constitute a baseless, vile and unwarranted attack on their personal and professional integrity. The law officers expressed their support and solidarity with the Solicitor-General.

2. The allegations reported in the 2 press articles constitute a gross **misrepresentation of facts and law.** The AGO wishes to bring the following clarifications –

(A) It is UTTERLY false to insinuate that ANY law officer is advising or representing ANY parastatal body (whether FIU or any other institution) without proper authority under the Law Officers Act.

As stated in the National Assembly in the reply to **PQ B/217** on **29 March 2015** by the Attorney General, the practice of law officers appearing for parastatals dates back to the early 1980s. The privilege to do so has been acknowledged and reasserted by successive Attorneys General and Governments.

On 30 January 1995, the then Attorney General and Prime Minister sought and obtained, **in writing** the President’s approval for the **Solicitor General and any law officer** to not only do legal advisory and drafting work, but also appear in Court or before any quasi-judicial body or Tribunal, for parastatal bodies or institutions or companies where Government has an interest.

It is to be noted that the approval given was not restricted to “any special case” but was of a general nature.

On **6 March 2003**, the Honourable Prime Minister again sought and obtained the President’s approval in writing for State Attorneys and Law Officers to represent **ICAC and the FIU in Court as and when required by these institutions.**

(B) A judgment of the Supreme Court of Mauritius in 2013 confirms that law officers can appear for parastatal bodies by virtue of the general approval conveyed to them:

On **12 November 2013, in the case of V. Sumputh v Honourable Minister of Tourism and Tourism Authority**, the Supreme Court rejected Counsel Gayan’s (appearing for V. Sumputh) contention that State Counsel appearing for the Tourism Authority in that Case did not have the President’s authorisation to do so because State Counsel did not hold “specific” authority to appear in that precise case. The President’s Office gave evidence in Court and the Court accepted that the evidence showed that the State Counsel could lawfully appear for parastatal bodies and rejected counsel’s contention. It is most unfortunate that this very precise matter is being alluded to in the allegations.

(C) The Revised Laws of Mauritius, published under the Revision of Laws Act, is the sole official text of the enactments included in it.

Section 4(5) of the Revision of Laws Act reads as follows:

(5) Notwithstanding sections 12 (1) and 13 of the Interpretation and General Clauses Act, a revised edition shall, for all purposes, from the day prescribed under subsection (4) and with effect from the day immediately following the cut-off date—

(a) **be the sole official text of the enactments included in it;** and

(b) be taken to be the law of Mauritius on the cut-off date.

The baseless allegation or insinuation that the words “in any special case” may have been deliberately omitted by the AGO in the Revised Laws of Mauritius version of the Law Officers Act (purportedly for some personal advantage) since 2013 is absurd and misleading:

The original proof of the text of the Law Officers Act that was vetted and revised and published in the Revised Laws shows that several other words or provisions in that text were, as part of the normal law revision exercise, deleted or modified and not merely, as alleged, the 4 words “in any special case”.

The Law Revision Unit of the AGO, headed by experienced legislative draftspersons, including very senior legal and judicial officials made these changes (as well as many changes in many other laws, on the ground of “obsolescence”) in the Revised Edition of the Laws in 2007 and not in “2013” as alleged. This was done in pursuance of powers under section 5 of the Revision of Laws Act. These 4 words have not been “volatilisés” as alleged. They had become obsolete since 1982 in view of the general authority prevailing since more than 25 years prior to the 2007 law revision exercise.

(D) Publication of Revised Laws of Mauritius has been entrusted to private companies since 1980.

The allegation that it was under the “precedent” Attorney General in 2013 that a private company was entrusted the publication of the Revised Laws, insinuating thereby that by these means the Law Officers Act could easily be modified to suit the personal interest of law officers.

It was 9 years ago, in 2007 and not 2013, under the then Attorney General that the Revised Laws, with the 4 words being deleted, were published.

The publication of the Revised Laws, after rigorous vetting and proof-reading and necessary modifications by trained lawyers and staff in the Law Revision Unit, by a private company started in 1981 (Precigraph Limited), continued in 2000 (Best Graphics Ltd), continued in 2007 [LexisNexis] and, since 2013 [Blackhall Publishers](Revised Subsidiary Legislation). This had nothing to do with any imaginary intention to “fiddle” with the text of Acts of Parliament in (supposed) usurpation of Parliament’s powers.

3. The AGO, by virtue of its constitutional role as legal adviser to Government, has a “*devoir de réserve*”, but the scurrilous allegations have left it with no choice but to set the record straight in relation to the issues set out above.

4. The AGO wishes to highlight that the scurrilous allegations of Mr Trilochun may have grave consequences such as the loss of confidence in the legal profession and the public at large in the soundness and reliability of the periodically published Revised Laws of Mauritius and Revised Subsidiary Legislation of Mauritius.

5. Furthermore, the AGO and the law officers reserve their right to initiate such action as they deem warranted following the allegations.

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