SEPTEMBER 2022 ISSUE 126

THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

"TO NO ONE WILL WE SELL, TO NO ONE DENY OR DELAY RIGHT OR JUSTICE"

-Chapter 40, Magna Carta

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The E-Newsletter

Editorial Team

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Editorial

Anusha Sheila Aubeelack
State Counsel

Dear Readers,

September 2022 has been marked by the passing of Queen Elizabeth II, the longest-serving British monarch and head of the Commonwealth of Nations, of which Mauritius has been a member state since its accession to Independence in 1968. The late Queen was also the Queen of Mauritius, therefore our nominal head of state, from 1968 to 1992, in accordance with the United Kingdom's Mauritius Independence Act. She was represented in Mauritius by a Governor-General whom she appointed on the advice of our Cabinet.

Sir John Shaw Rennie became the first Governor-General on the 12th of March 1968 and was succeeded in the same year, in September, by Sir Arthur Leonard Williams. However, until the arrival of the latter on the island, Sir Michel Rivalland, our first post-Independence Mauritian Chief Justice, was the acting Governor-General for 7 days. It was not until December 1971, when the third Governor-General, Sir Abdool Raman Mohamed Osman, was appointed that a Mauritian held this office for the first time. He retired in October 1977. Sir Henry Garrioch (formerly Crown Counsel, Director of Public Prosecutions and Chief Justice) occupied the position, in an acting capacity, up to March 1978. Sir Dayendranath Burrenchobay was then appointed by the Queen to hold the office and he did so until December 1983. Sir Seewoosagur Ramgoolam, our first post-Independence Prime Minister, had been serving as Governor-General for nearly two years, from the 28th of December 1983, when he passed away on the 15th of December 1985. For the 33 days which followed, Sir Ismael Cassam Moollan (formerly Magistrate, Crown Counsel, Solicitor General, Queen's Counsel and Chief Justice) acted as Governor-General. The sixth and last Governor-General, Sir Veerasamy Ringadoo, served at the pleasure of the late Queen from the 17th of January 1986 till the 12th of March 1992; this is when Mauritius achieved the status of Republic and he became our first President.

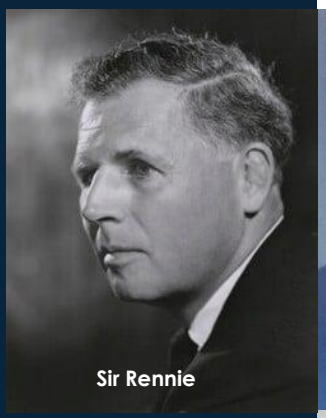
During the 1990s, our island's political and economic stability, post-Independence, was an "economic miracle". The textile manufacturing industry was expanding and the tourism and sugar industries were booming. Mauritius largely benefited from having strong and friendly relations with Britain and other countries of the Commonwealth. We received significant development and technical assistance from this former colonial power. In February 2022, Queen Elizabeth II celebrated her Platinum Jubilee, commemorating seven decades of her service to the Commonwealth. Her strong personal commitment to it could be seen from the many trips she made to member states. During her reign, the late

monarch made about 200 such travels. Her state visit to Mauritius in March 1972 is still remembered by many. Photographs from this historic three-day tour are reproduced on the next pages.

Sir Hamid Moollan QC and Sir Raymond d'Unienville QC have now automatically become KC, King's Counsel. This is just one example of the changes that have occurred. Simmering discontent throughout some member states, especially in the Carribean, are causing them to demand accountability from the royal family for their painful colonial past. It is hoped that the Commonwealth, which is but a voluntary association of fifty-six independent states, will survive the passing of its greatest champion, Queen Elizabeth II.

Inside this issue, you will discover two articles; the first, authored by the Director of Public Prosecutions, Satyajit Boolell SC and Audrey Sunglee, Principal State Counsel, is on the evolution of our criminal law and was first published in the AIPPF (Association Internationale des Procureurs et Poursuivants Francophones) August 2022 Bulletin. The second article is by Geetika Parmanund, Senior State Counsel, wherein she shares with you her experience after attending the Prosecutors' Network Forum in Kenya.

We hope that you enjoy the other features of our e-newsletter too!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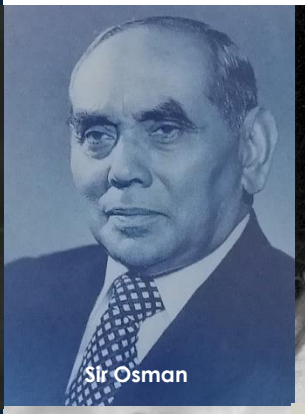
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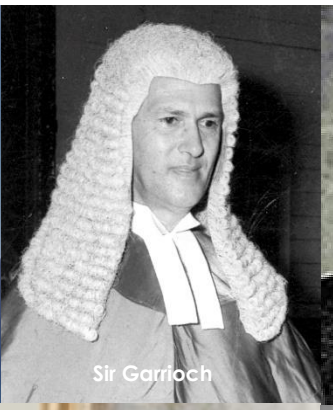
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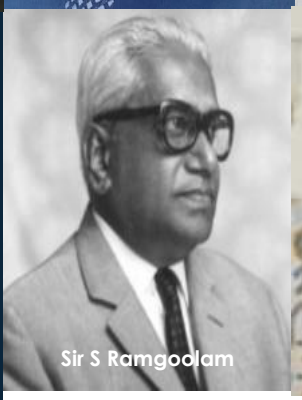
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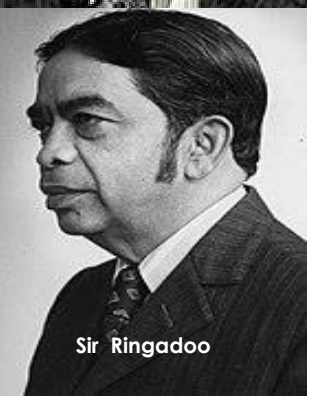
Sir Ringadoo

The Queen's Visit in 1972

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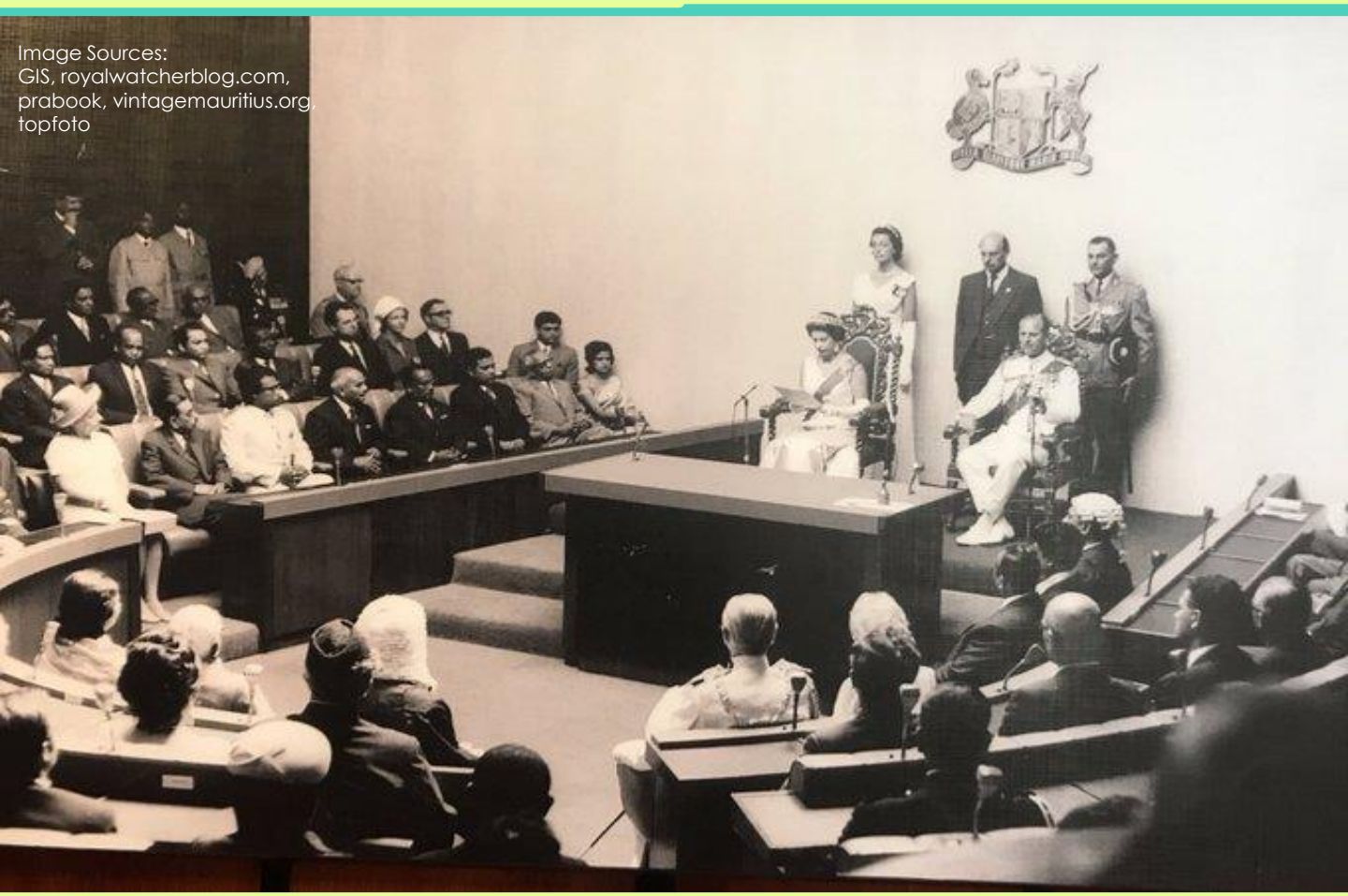
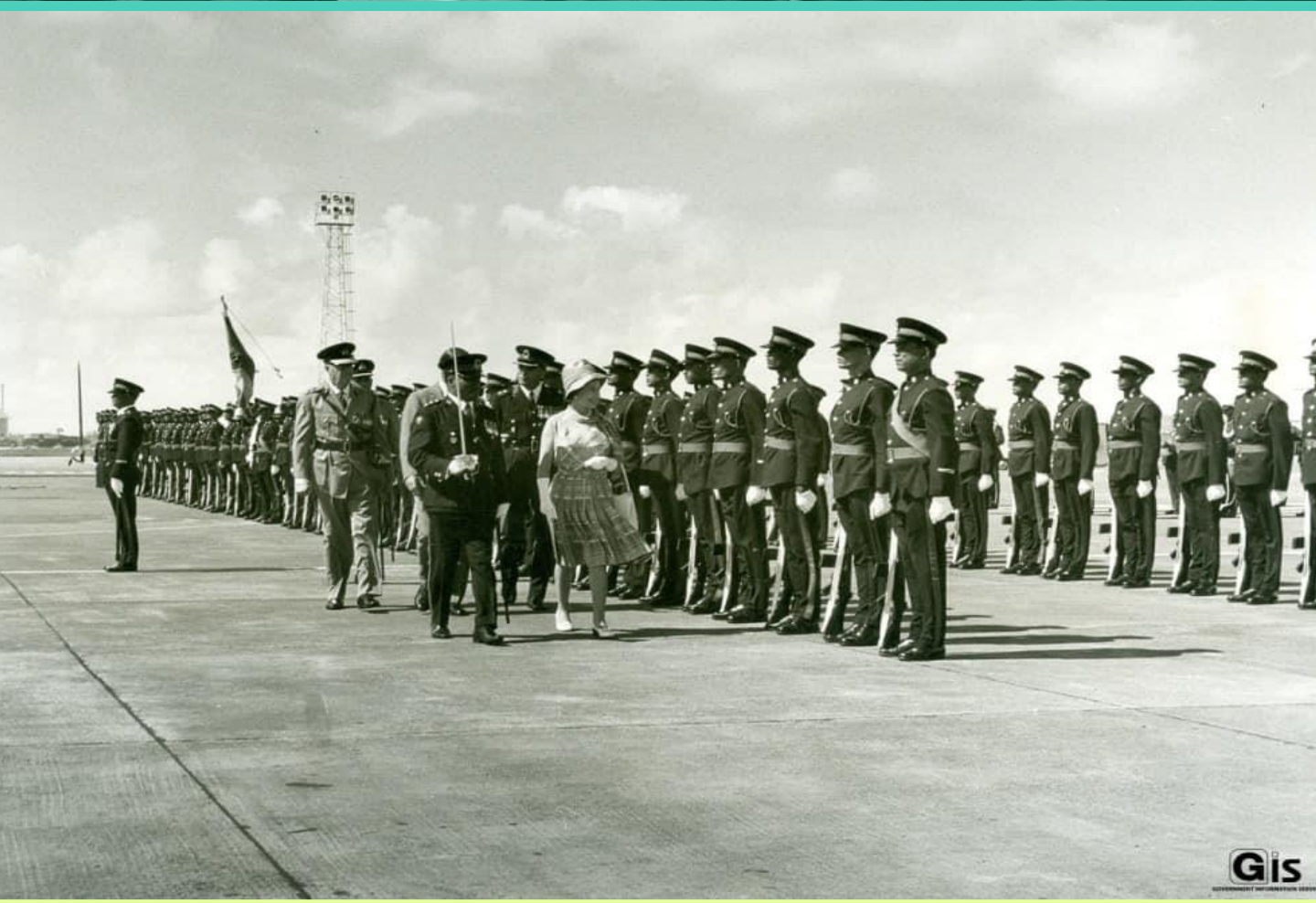


The Queen's Visit in 1972



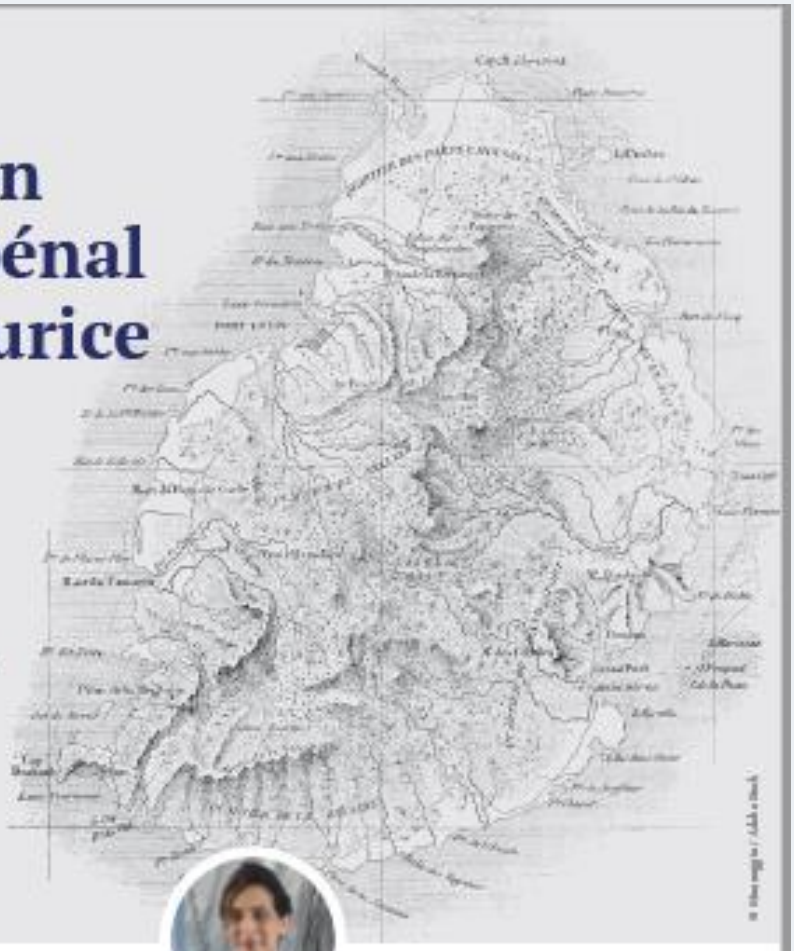
CONTENTS

ARTICLES

E-newsletter - Issue 126 **September 2022**

L'évolution du droit pénal à l'Île Maurice

Pour cette petite île au milieu de l'Océan Indien qui pendant longtemps n'apparaissait pas sur les cartes géographiques, l'histoire de son droit et de son système juridique furent cependant l'objet d'attention particulière des puissances colonisatrices occidentales et ce, dès le dix-huitième siècle.



Satyajit BOOLELL
Directeur des poursuites pénales de Maurice

Audrey S. SUNGLEE
Procureure principale de l'État

L'histoire

Découverte par les Portugais dans les années 1500, l'île est abandonnée quelque temps plus tard. Les Hollandais se l'approprient et la surnomment Maurice, d'après le nom de leur prince, Maurice Van Nassau. Ils la désertent en 1710 et en 1715, le général Dufresne d'Arsel en prend possession au nom du Roi de France. Elle s'appelle désormais Île de France. Elle est la sœur de l'Île Bourbon (maintenant Île de la Réunion).

Vu sa position stratégique sur la route des Indes, le Roi la cède à la Compagnie des Indes en 1732. Un Conseil Provisoire, sous l'autorité du Gouverneur, est établi pour décider des affaires civiles et criminelles. En 1764, le Roi de France reprend ses droits après la Guerre de Sept Ans. Le Conseil Supérieur est mis sous la supervision d'un Intendant.

Survient ensuite la révolution française en 1789. Les codes promulgués en France sous Napoléon 1er sont adoptés dans l'île dont le Code Civil, le Code de Procédure Civile, le Code de Procédure Pénale et le Code de Commerce.

En 1810, l'île est conquise par les anglais après la célèbre bataille du Vieux Grand Port. Elle est rebaptisée Île Maurice. Le Traité de Capitulation signé entre Paris et Londres prévoit, ce qui est

à noter, «que les habitants conserveront leurs Religion, Lois et Coutumes» et que les «mêmes lois et les mêmes usages en vigueur à ce jour seront observés».

L'île a été peuplée par les colonisateurs certes mais également par une population issue de l'esclavage et par l'importation des travailleurs «engagés» du sous-continent indien. Le résultat de cette histoire, du point de vue du droit, est, on ne peut plus inspirant avec la mixité qu'elle a produite, où, entre autres, les codes napoléoniens font bon ménage avec la «common law».

En mars 1968, l'Île Maurice accède à l'indépendance. S'amorce alors la décolonisation. Une Constitution, taillée sur le modèle Westminsterien, est adoptée. Il est prévu que les lois existantes restent en vigueur sauf si elles enfreignent la Constitution. L'Île Maurice devient une République en 1992.

Le droit pénal

Dans les années 1700, les infractions criminelles et les peines sont très peu définies et sont laissées principalement à l'arbitrage du Roi et de ses juges. Le Code Noir de 1723 est spécifiquement rendu exécutoire sur l'île.

Avec la Révolution Française et sa Déclaration des Droits de l'Homme et du Citoyen, le système juridique en général, et pénal en particulier, non seulement en France, mais dans ses colonies se voient remanier drastiquement. En 1793, l'Assemblée Coloniale adopte la Déclaration ainsi que le Code Pénal de 1791 qui prévoit l'institution du jury, l'adoucissement des peines, la publicité des procédures et impose des peines fixées.

Le pouvoir judiciaire est exercé exclusivement par les Tribunaux de Première Instance, avec le concours de jurés d'accusation et de jurés de jugement, et des cours d'appel. Il y a même un tribunal de révision pour juger si les formes prescrites dans les jugements criminels sont observées. L'Intendant devient un simple administrateur.

Une restructuration est opérée en 1803 par le Général Decaen qui réinstaure l'Intendant dans son rôle de préparation des lois, criminelles et civiles propres à l'île et crée un tribunal criminel spécial pour les crimes commis par les esclaves.

En 1810, changement de colonisateur. Cependant, avec le Traité de Capitulation, les lois, us et coutumes en vigueur sont conservés. L'application des lois françaises par des juges anglais se fait non sans peine.

Un mouvement de réforme du Code Pénal se met en marche en 1832 et un changement draconien vers la loi anglaise est suggéré. Mais soucieux de préserver son engagement «sacré et inviolable» de 1810, le Secrétaire d'État aux Colonies enjoindra le Gouverneur Sir Charles Colville de se tourner vers le droit français pour la réforme. Après de nombreuses réticences, le nouveau Code Pénal est promulgué, avec l'assentiment de Londres, en 1838.

Bataille du Vieux Grand Port

Ce Code est principalement basé sur le Code pénal napoléonien de 1810 et intègre les quelques modifications apportées en France en 1832, avec cependant quelques changements inspirés du droit anglais et du Code Pénal Indien. C'est un Code «sui generis» qui classifie les différentes infractions entre contraventions, délits et crimes et réduit les cas punis par la peine de mort et par des peines «barbares».

Les années qui suivent voient la promulgation de multiples lois, d'origine anglaise, pour équilibrer, ou faciliter, ce métissage de l'application de la loi française (loi de fond) avec la procédure pénale d'inspiration anglaise comme contenu dans le *Criminal Procedure Ordinance* (décret sur la procédure pénale) de 1853 et avec le droit de fond anglais se trouvant dans le *Criminal Code* (Supplementary) Ordinance (décret sur les infractions supplémentaires au Code Pénal) de 1870. Les jugements sont dorénavant rendus au nom du Roi d'Angleterre et la plus haute instance judiciaire passe de la Cour de Cassation en France à un tribunal colonial puis finalement, au Conseil Privé du Roi.

Suivant la mouvance en Angleterre, l'abolition de l'esclavage est proclamée en 1835 dans l'île et provoque ainsi l'arrivée de travailleurs indiens: des coolies et sirdars principalement. Les lois subissent de grands changements à la fin du 19e, début du 20e siècle, pour s'accorder aux besoins d'une population asiatique grandissante. Après 1912, les modifications se font plus rares.

Avec l'accession de Maurice à l'indépendance en 1968, le Code Pénal s'intitule désormais Criminal Code (ou Code Pénal Mauricien). Le législateur mauricien opère peu de changement au *Criminal Code*, préférant l'épauler avec des lois distinctes inspirées de l'Angleterre et d'autres pays du Commonwealth, tels que le *Dangerous Drugs Act* (sur les stupéfiants et le trafic de stupéfiants) ou le *Prevention from Corruption Act* (loi sur la prévention de toutes formes de corruption). En 1995, la peine de mort est suspendue comme sentence. Le Code Pénal en tant que tel subira des modifications éparses comme l'inclusion de l'infraction «*Culpable Ommission*» (non-assistance à personne en danger) en 2006 ou «*perverting the course of justice* » (entrave à la justice) en 2018.

En 1992, le Code Pénal Français subit une reconstruction complète. Maurice reste sur le Code de 1838, avec les modifications apportées au fil des années, malgré comme l'a souligné L. E. Venchard, Solicitor General de l'île Maurice, que «*Tout génial qu'il fut, Napoléon ne pouvait, des 1810, prévoir la criminalité du XXIe siècle*».

Les propositions de réforme en 2011 et en 2016 émises par la Law Reform Commission de l'île Maurice pour la refonte significative du Code Pénal Mauricien, demeurent, valeur du jour, sans effet.

La collaboration de l'Etat français dans le domaine du droit, très fructueuse en 1983 et 1992 avec de grandes réformes du droit civil mauricien, a été renouvelée pour la réforme du *Criminal Code*. Une approche ciblée et clinique a été préconisée mais la réactualisation peine à s'enclencher.

En conclusion, l'histoire du droit pénal laisse une empreinte indélébile sur ce «*droit mixte par excellence*» qu'est celui de l'île Maurice. Le fondement de ce droit étant le Code Pénal napoléonien, tout projet de réactualisation ne saurait faire abstraction de ce fait historique. L'histoire du droit pénal mauricien est une des expressions les plus marquantes de la relation particulière existant entre la France et Maurice et justifie, si besoin est, de la place de cette dernière au sein de la francophonie.

Geetika Rampoortab Purmanund

State Counsel

Prosecutors' Network Forum in Kenya

The UNODC conducted its second Prosecutors' Network Forum for this year in Kenya from the 29th August 2022 to the 1st of September 2022 following the first one in Tanzania in April 2022.

I was designated to attend to this forum, together with Mr. A. Neerooa, SADPP, to represent the ODPP. There were many countries from Africa which were represented by senior law officers including the Seychelles, Ghana, Nigeria, Cote d'Ivoire, Mozambique, Madagascar, Togo, Kenya itself, Somalia, Benin, Comoros Islands, amongst others.

The forum was held over a span of 4 days during which different topics on Maritime Law and the UNCLOS were discussed; case scenarios were given to consider how our respective countries would have handled the case at the investigation level as well as before a Court of Law.

On the first day, after the registration and introduction of each participant, a presentation was made by the UNODC on the UNCLOS in general. Then each country was asked to update on any maritime crimes which had been detected, investigated and prosecuted since the last meeting in April 2022. As regards Mauritius, the recent case of the Iranian dhow which was found in the Exclusive Economic Zone of Mauritius and which had on board 9 persons, was discussed. The master of the dhow pleaded guilty in May 2022 for failing to stop immediately and lie to or manoeuvre in such a way as to permit the members of the National Coast Guard to board the vessel upon being hailed, in breach of section 10 of the National Coast Guard Act. He was given absolute discharge by the Learned Magistrate.

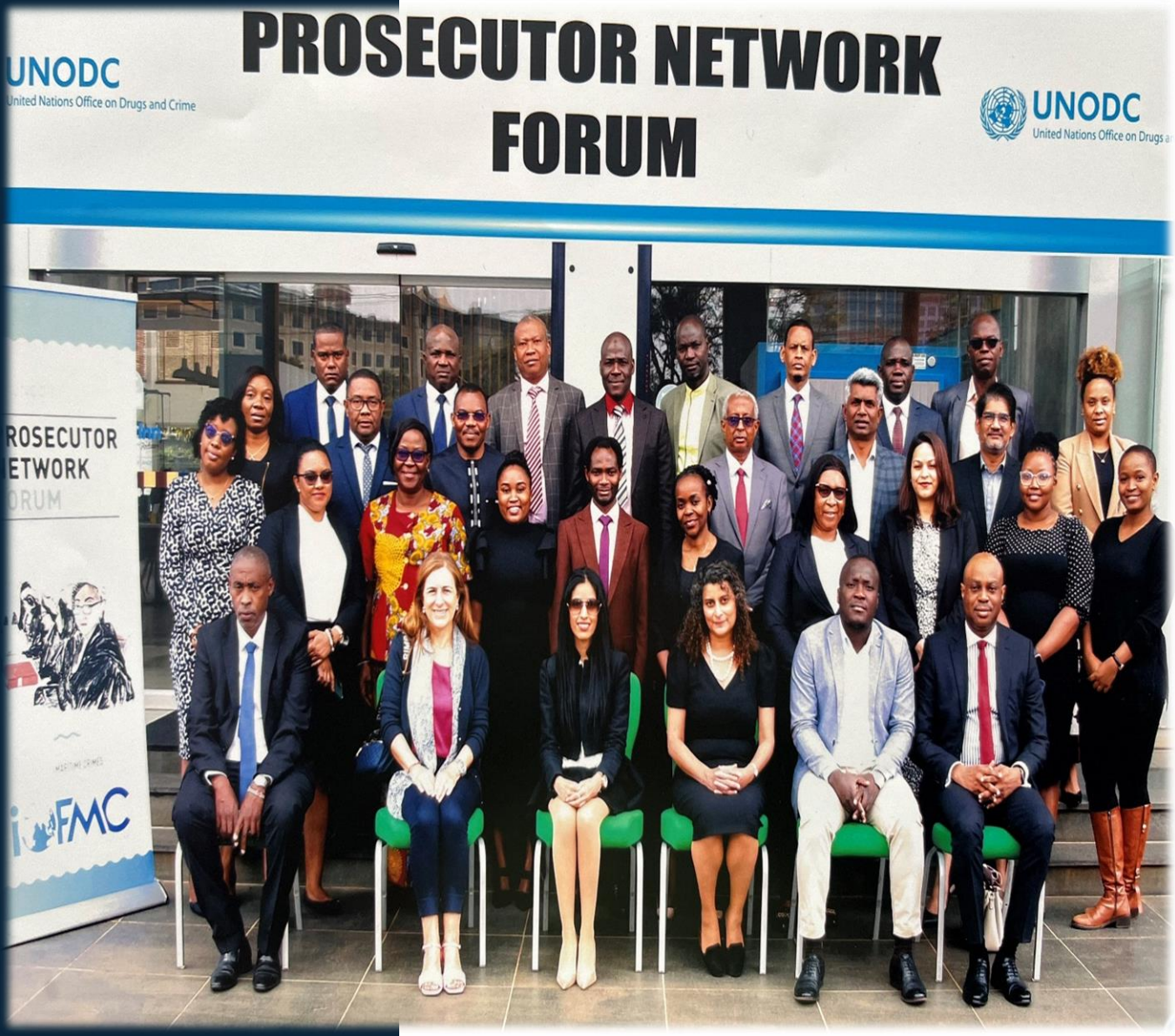
The session continued with an extensive briefing of the simulated trials which were held in Kenya, Seychelles and Mauritius respectively following which recommendations and conclusions were considered in respect of each jurisdiction.

On subsequent days, several important topics were presented by UNODC experts and discussed. Interesting and novel subjects such as digital evidence, vessel boarding, intelligence and evidence gathering on board, mutual legal assistance, extradition presentations and chain of custody, amongst others, were discussed. After the presentation of those topics, case scenarios were given and discussed and all the countries had to share their views on how the cases would have been handled in real life, from their own countries' perspective.

Prosecutors' Network Forum in Kenya (cont'd)

The last day ended on a note of thanks to everyone for their participation as well as recommendations by each country regarding the shortcomings in the local laws and the way forward.

The Prosecutors' Network Forum was a very enriching experience during which I got the opportunity to interact with other Prosecutors of the region and share our experience.



LAW & HISTORY

E-newsletter - Issue 126

September 2022

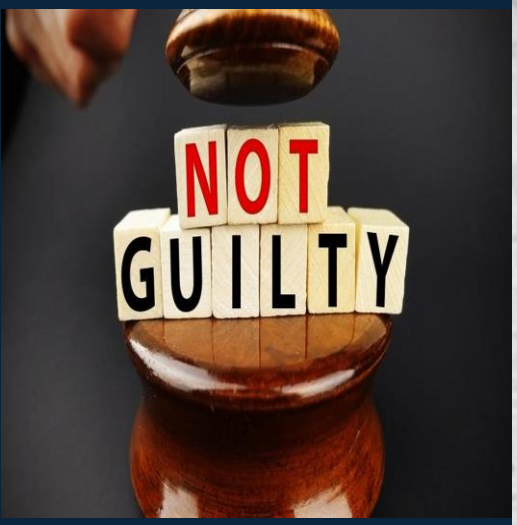


Image Source: https://crimepsychologist.com/

Insanity

One of the fundamental elements to be established to prove a crime or misdemeanour is the guilty mind of an accused termed as *'mens rea'*. The mental element of a crime used to be absent in ancient common law and emanated from the English Courts around the thirteenth century. Although prior to that the term *'mens rea*' had no fixed and continuing meaning in law, its importance and influence had been felt since the twelfth century.

The question we consider in this article is: What about a person who is incapable of understanding his actions due to a mental condition?

One of the first reported cases where a plea of insanity was raised is that of **The Queen vs. Poinee [1866 MR 85]**. The accused stood charged of the murder of her infant child and her Counsel submitted a plea of insanity in bar of proceeding to trial. In his address to the jury, the then Chief Justice observed that:

"*You have to consider questions directly and almost closely affecting that mysterious thing, called the human mind, and you will have to decide, looking at the evidence which has been laid before you, whether the prisoner is now in a fit state to be sent to trial, or whether she is so far bereft of ordinary reason, that she ought not to be made to undergo, at present, the ordeal of an investigation before a Court of Criminal Inquiry."*

He further observed that the evidence adduced reflected that: *the prisoner is not, on the one hand, like ordinary persons, in regard to mind and intellect, nor on the other, an absolute idiot. All the witnesses agree that she is not like ordinary persons but is very peculiar in her manner*. The Jury retired and after consultation returned a "verdict" that "the prisoner is insane and unfit for trial."

Today, the defence of insanity is provided for in our law under s**ection 42 of the Criminal Code , which reads as follows:**

"(1) There is neither crime nor misdemeanour, where an accused person was in a state of insanity at the time of the act, or where he has been compelled to commit such act by a force which he could not resist, and in consequence he shall be acquitted.

(2) *In this section "insanity" includes mental disorder rendering the accused incapable of appreciating the nature and quality of the act or of knowing that it was wrong."*

Since insanity would allow an accused to be acquitted, it has to be determined who bears the burden of proving that the accused was insane at the time of the commission of an offence. The answer lies in the McNaughton's rules.

Insanity (cont'd)

Daniel McNaughton

Image Source: https://sites.google.com/site/theinsanitydefense956/m-naghten-trial

Daniel McNaughton shot and killed the secretary of the British Prime Minister, believing that the Prime Minister was conspiring against him. His legal representative was able to prove his mental disorder of delusion and subsequently, his inability to form any *"mens rea"* necessary for that murder. The court acquitted McNaughton *"by reason of insanity".* However, the case caused a public uproar, and Queen Victoria ordered the court to develop a stricter test for insanity. The Lord Chancellor put five questions to the House of Lords and their reply has been construed as the McNaughton's rules.

The following are the main points of McNaughton's rules:

- Every man is to be presumed to be sane and to possess a sufficient degree of reason to be responsible for his crimes, until the contrary be proved.
- An insane person is punishable "if he knows" at the time of crime.
- To establish a defence on insanity, the accused, by defect of reason or disease of mind, is not in a position to know the nature and consequences.
- The insane person must be considered in the same situation as to responsibility as if the facts with respect to which the delusion exists were real.
- It was the jury's role to decide whether the defendant was insane.

If an accused avers that he was insane when he committed the crime, then the legal burden is on him to prove that he was so insane at that time. Should he fail and the trial proceeds, the Prosecution must prove every other issue.

From a practical perspective, once the issue of insanity is raised, it must be determined whether the accused can face trial or is 'unfit to stand trial'.

The application of the legal principles discussed can be illustrated using 3 different scenarios:

Insanity (cont'd)

Image Source: hancock.com

From a practical perspective, once the issue of insanity is raised, it must be determined whether the accused can face trial or is 'unfit to stand trial'.

The application of the legal principles discussed can be illustrated using 3 different scenarios:

Scenario 1: The Accused was insane at the time of the offence and continues to be at the time of the trial. He will most likely be found to be unfit to stand trial.

Scenario 2: The Accused was insane at the time of the offence and becomes sane at the time of Trial. This is the most unlikely scenario and without going into the intricacies of the law, the general principle is that insanity at the time of the act will provide a defence to the Accused (section 42 Criminal Code).

Scenario 3: The Accused was sane at the time of the offence and becomes insane at the time of Trial. Whilst the *actus reus* would exist, the Accused might be found to be unfit to stand trial.

Today, several Commonwealth countries including Australia and Canada have either abolished or considerably modified the McNaughton's rules. Even in UK, where the rules emanated, these have been abolished.

IN FACT

E-newsletter - Issue 126 **September 2022**

Indecent act in public

Any person who commits a grossly indecent act in public shall commit an offence under Section 248 of the Criminal Code. Upon conviction by a court of law, such person is liable to imprisonment for a term not exceeding 2 years and to a fine not exceeding Rs. 10,000.

Burying corpse without lawful authority

Any person who causes the body of another person to be buried without having obtained the prior authorisation of the Public Officer, where such authorisation is required, shall commit an offence. Upon conviction by a court of law, such person is liable to a fine not exceeding Rs. 100,000 or imprisonment, and this, without prejudice to the Prosecution for any other misdemeanour which the offender might be accused of, in connection with this one.

Concealing corpse

Section 273 of the Criminal Code makes it an offence for any person to conceal or hide the body of a person who has either been killed or has died from the effects of any blow or wound. Upon conviction by a court of law, such a person is liable to imprisonment or a fine not exceeding Rs 100,000/- and this without prejudice to any severer punishment where the offender participated in the crime.

Image Source: *vectorstock.com*

SUMMARIES OF SUPREME COURT JUDGMENTS

E-newsletter - Issue 126 **September 2022**

JOWAHEER M A H v THE STATE 2022 SCJ 313

By Hon. Judge D. Chan Kan Cheong and Hon. Judge R. D. Dabee

Copyright Act –Information-Elements of the offence-Copyright Owner-Infringing Copy- Appeal

Thr Appellant was found guilty of the offence of *'Possession of Copies of Sound Recording made for Commercial Purposes without a Mark or Stamp of the Society Affixed to its Label or Container*' in breach of **sections 28(1)(4)** and **44(1)(d), (3) and (4)** of the **Copyright Act 1997** as well as for '*Possession in the course of Trade of Copies of Works which constitute an Infringement of the Copyright of the Owner, without the Express Authorisation of the Copyright Owner*' in breach of **sections 44(1)(a)(vi), (3)** and **(4)** of the said Act. He appealed against his conviction.

It was held on appeal that when prosecuting under **Section 28** of the **Copyright Act 1997**, it is important that the information contains all the material elements that would constitute an offence under that section. The relevant count of the information in this case simply averred that the Appellant was in possession of sound recordings made for commercial purposes. For there to be an offence, the copies of those sound recordings must be copies falling under **section 28(1)** of the said Act. Such a sound recording would be one on which is printed a notice consisting of *"(a) the symbol P; and (b) the year in which the sound recording was first published" and which is "placed in such manner as to give reasonable notice of a claim to protection of the rights of the producer*". Being given that the information failed to disclose these material elements, this ground of appeal was upheld.

Another ground raised by the Appellant and addressed by the Court was with regard to the offence of possession in the course of trade, of copies of works, without the express authorisation of the copyright owner. It was contended by the Appellant that it was not established at trial stage who the actual copyright owner of the works in lite was. The Appellant further argued that the person who came to depone at trial stage as being the copyright owner of the infringing copies failed to produce an original or certified copy of a document emanating from the relevant authority, in this case the MASA.

The Supreme Court reiterated the principle that it is not for the Appellate Court to interfere with the assessment of the credibility of a witness. Moreover, the Appellant in this case had already confessed to the fact that he did not have any authorisation from the Copyright Owner and a confession is the best evidence.

Finally, it was contended by Appellant that the person who claimed to be the copyright owner had not examined all the copies of the works in lite but had identified only one of them. The Appellate Court pointed out that this point was never raised at the trial stage. In the present case there were 82 CDs containing the copyrighted material. The 82 CDs were similar and contained the same works, therefore, there was no requirement for the Copyright Owner to examine and identify each CD.

Save and except for the ground of appeal which was upheld, the appeal was dismissed.

Ramjaun v the State 2022 SCJ 316

By Hon. N. F. Oh San-Bellepeau

Indecent Act upon a Child - Child Victim - Competency Test - Intermediate Court is a Court of Record

The appellant was convicted for wilfully and unlawfully committing an indecent act upon a child under the age of 12 in breach of **section 249(3)** of the **Criminal Code**. The learned Magistrate of the Intermediate Court sentenced him to undergo 12 months' imprisonment.

This is an appeal against judgment and sentence. In a nutshell, the appeal is based on the grounds that it is not clear on the record of proceedings what were the questions put to witness no. 7 (the child victim) by the trial court to determine and/or assess her competency before taking the solemn affirmation and thus, the learned Magistrate was wrong to state on record that a competency test of witness no. 7 was carried out by the trial court. As such, a conviction in the present matter is unsafe and cannot stand and taking into consideration that the accused has a clean record, the sentence passed is manifestly harsh and excessive. The Learned Counsel for the Appellant made reference to the case of **Goolamally v The State 2021 SCJ 327** to support his proposition.

The Learned Counsel for the State submitted that the entry made by the learned Magistrate on the court record establishes that the test was carried out based on the presumption of regularity. She relied on the dicta in The **State v Ruhumatally 2015 SCJ 161**, namely that "*When it comes to court records, there is a presumption of regularity which applies and it entails that what happened in court has been properly recorded", and "... the oft quoted principle that substance ought not to be sacrificed at the altar of procedure*".

The Judges of the Supreme Court referred to the case of **Jeetah v The State [2014 SCJ 337]** in which it was held that 'The sole criterion, in the case of a child deponing on oath or on a promise to speak the truth ... is the understanding of the nature of an oath in the former case and the possession of enough intelligence to make a correct statement on the subject matter of the trial in the latter case. It is for the trial Magistrate or Judge to examine the witness as to his competency in either case and the record of the proceedings must show that he has carried out the investigation (vide **Jugarsingh v R [1952 MR 13]".**

In **Basenoo v the Queen [1983 MR 89]**, the court held that "*the record of the proceedings must show that he has carried out that investigation". In that case, since there was "nothing on record to show that any test was carried out to satisfy the trial Court that the girl had sufficient intelligence to make a correct statement on the issue or that she had made the required promise to speak the truth, her testimony ... was also tainted with such irregularity as to make it inadmissible*."

Therefore, in the present case, the Supreme Court concluded that given that the Learned Magistrate did not give details of the questions she has put to the child victim, there is doubt as to whether the test of competency was properly carried out, and consequently, whether the learned Magistrate might have erred in concluding that the child was competent to give evidence under oath. On the issue of presumption of regularity, the court referred to Ruhumatally (Supra) that "*When it comes to court records, there is a presumption of regularity which applies and it entails that what happened in court has been properly recorded. If the court record is silent on an issue it must necessarily lead to the conclusion that the thing did not happen*."

In Deelchand v The State [2017 SCJ 435], the court quoted **section 80(1)** of the **Courts Act** which established and created the Intermediate Court and provides that "*there shall be an Intermediate Court which shall be a court of record*".

Hence, the Supreme Court concluded that some of the grounds of appeal were well taken, declared the trial to be a nullity, quashed the appellant's conviction and sentence and remitted the case for a fresh trial before another bench.

FOR THE FUN OF IT

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Q: Why are there no Irish lawyers?

A: They can't pass the Bar!

Source :readersdigest.ca

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Q: Do you know how copper wire was invented?

A: Two lawyers were fighting over a penny.

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“Growth is never by mere chance; it is the result of forces working together.”

- James Cash Penney