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"Your vision will become clear only when you can look into your own heart. Who looks outside, dreams; who looks inside, awakes." -- Carl Jung

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## Reaffirming our faith in key public institutions

It is important to understand that much of the progress Mauritius has recorded in the past has derived from the sound working of its key institutions. Many countries, even though endowed with rich natural resources, have lagged behind because their major public institutions failed to deliver according to rational expectations. The perception of institutions doing or not doing the works assigned to them up to the required standard makes the whole difference between countries which forge ahead and those which mess it up. The more we empower the men and women in charge of running our critical institutions independently of all other considerations, the more effectively will they do what they have been mandated to do.

The Police and the Judiciary are two of the most important public institutions of the country.

The police has been cast into nega-

tive light in the investigation it has been carrying out over a fairly prolonged period so far in the Varma-Jeannot case.

It is also being cast in negative light about its handling of the current investigations relating to allegations which have been made against the former Attorney-General, Rama Valayden.

The impression has been created in this case that the latter's arrest by the police on the basis of allegations, forms part of police vendetta against him for his having, amongst others, demolished in court the evidence brought by the police in the high-profile murder case of Michaela Harte. All this may have nothing to do with the reality but a perception of unfairness and persecution is being created in public. The Commissioner of Police will hopefully do his utmost to wipe out such perceptions fairly quickly.

M.K.

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Interview: Kamal Hawabhai, President of Association of Management and Trust Companies

**'We should avoid harbouring any undue belief that Mauritius is so "indispensable" ...**

... that investors and international businessmen will always turn to Mauritius for structuring and other services, come what may!

• 'Allegations of round tripping have been levelled against our jurisdiction since a long time now but have never been established in fact'

## To Eat or Not to Eat?

Health is in our hands. And it's not complicated: eat and drink everything, but in moderation, go natural and avoid processed foods as far as possible, and then go burn the calories in the open

DR R. NEERUNJUN GOPEE

**A** health report in the *Independent Online UK* cites an article in the *British Medical Journal* by Dr Aseem Malhotra, a top cardiologist at Croydon University Hospital, who 'argues that saturated fats have been "demonised" since a major study in 1970 linked increased levels of heart disease with high cholesterol and high saturated fat intake.' He is quoted as saying that 'four decades of medical wisdom that cutting down on saturated fats reduces our risk of heart disease may be wrong. Fatty foods



that have not been processed – such as butter, cheese, eggs and yoghurt – can even be good for the heart, and repeated advice that we should cut our fat intake may have actually increased risks of heart disease.'

Ah bon? There we go again, I told myself, trust our physician friends, the real doctors – compared to us surgeons, cutters... *Non, mais...* All right then, so what do we eat? Or do we eat at all? Tell you guys what, let's all go for *brede mouroum baton mouroum* and all will be fine, I swear.

And I mean it. Except that we have to go for alternatives to *brede mouroum baton mouroum*, a rare commodity nowadays. A look at the past century in our country, especially in its latter half, shows that if people escaped death from infectious diseases (including rheumatic heart disease) or accidents, and women additionally from complications of delivery, chances are that they lived to a ripe old age. I personally have known many such seniors in my childhood locality in Curepipe Road, comprising of the area bounded by Lapeyrouse, Abbe Laval, and Prosper d'Epinau streets. And I am sure that many Mauritians of my generation around the country who come from similar modest backgrounds would have a comparable experience.

We would all remember that we ate mostly from our own gardens, where all varieties of vegetables of common usage were grown, a process in which we took an active part too.

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## Let not divisive politics raise its ugly head again

We cannot afford to set parts of the population against others: this is no serious agenda for a country which has been carving out its destiny as best it can

ANIL GUJADHUR

**I**n an interview which was published in the *Express* newspaper of 6th October last, Reverend Father Jocelyn Grégoire, priest of the Roman Catholic Church, stated that he was contemplating the creation of a local political party, distinct from the Fédération Créole Mauricien, a socio-cultural movement, which he heads currently. In his view, that party to be called the Fédération des Minorités Mauriciennes (FMM), would be a distinct entity on its own, open up to the "Musulmans, aux Chinois, aux Blancs, aux Tamouls, à toutes les minorités, y compris les minorités hindoues, les laissés-pour-compte, les basses castes". In other words, what is left behind, notably the rest of the Hindus, should not be the FMM's preoccupation.

On reading these thoughts, reminiscences of the elections of 1967 and the election campaign preceding it flashed back to mind. The whole atmosphere was then charged with the undercurrent of our communal separateness and all the animosities it brought in its wake.

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## Provoked tensions in the Indian Subcontinent

TP SARAN

**T**he world is so interconnected and networked now that events happening anywhere have the potential to affect everywhere, with impacts that may be of social, political, and economic nature. As a small country our destiny is closely linked to that of the big powers and the relations they entertain, and whatever happens in this regard is a matter of interest and concern to us.

This is the case with the current situation in the Indian subcontinent. Presently the Indian Prime Minister is on a visit to China, and in a press

conference there he has said that 'when India and China shakes hands the world notices.' At the same time, the Pakistani Prime Minister Nawaz Sharif has met with President Obama in Washington, and has expressed his country's strong opposition to the drone strikes carried out by the US in Pakistan to flush out terrorists, especially the Taliban.

When Nawaz Sharif was democratically elected as Prime Minister of Pakistan earlier this year, there was great hope that he would follow up on the declarations he had made regarding the normalization of relations with India. Sadly, it is the contrary which seems to be taking place.

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Activists shout slogans and burn an effigy during a protest in Jammu, India. Tensions between nuclear-armed rivals India and Pakistan have increased. Omar Abdullah, Chief Minister of Kashmir, has taken a very strong stand as these incidents are in his state, and has urged that the Central government must respond with more than just talking

# 'Allegations of round tripping have been levelled against our jurisdiction since a long time now but have never been established in fact'

A recent dispute involving a foreign investor and its management company amplified into a row over our global business sector. The police was called in and, in our headline-hungry country, the whole matter was blown out of proportions. Kamal Hawabhai, President of the Association of Management and Trust Companies of Mauritius, spoke to *Mauritius Times* this week to dispel the clouds that threatened to hang over the reputation and standing of this vital sector of economic activity. He says the sector has been doing its bit as best possible to expand its scope and it would not be too much if the authorities nudged it up in right real earnest from time to time...

**Mauritius Times:** You stated in a response to an article in relation to our global business sector, which appeared in this paper in 2006, that "Mauritius does business the smart way... that is why it is a hot favourite with everyone!" The current dispute between a local management company, Kross Border, and its foreign investor client, with accusations and counter-accusations made publicly against each other, is casting a shadow over this sector. That kind of public confrontation hasn't been a common occurrence over here and doesn't make our jurisdiction very "smart". What do you think?

**Kamal Hawabhai:** The way that this matter has and is unfolding is indeed rather unfortunate. The global business sector, like any other sector of economic activity, is averse to crises but the international nature of the global business sector makes it highly vulnerable and nery to any kind of negative force or event. Capital flight may happen instantly but reputation flight is also not far behind, mind you. Reputation has a lot to do with the way that the rule of law is applied but also seen to be applied and perception plays a huge role in this assessment made by foreign businesses, investors, individuals or institutions.

We should avoid harbouring any undue belief that Mauritius is so "indispensable" that investors and international businessmen will always turn to Mauritius for structuring and other services, come what may!

This is indeed the first time that we are witnessing such public confrontation and the industry is watching the film of the events with dismay and the hope that this matter will abate fast enough!

**\* What looks like a dispute amongst shareholders within an entity is likely to spill over with a potential to cause reputational damage to our jurisdiction. But the concerned authorities (in this case the regulator and the police) have nevertheless a duty to inquire and act according to the provisions of the law whenever grave accusations are levelled against any party doing business in this sector, haven't they? Isn't it right for authorities to protect the jurisdiction's reputation?**

The authorities indeed have every right to protect the jurisdiction's reputation and where any harm is done or even attempted against Mauritius, sanctions should definitely occur. The Financial Services Commission (FSC) has, after investigation, sanctioned Management Companies (MCs), global business entities and revoked licences, as can be ascertained from FSC's website, without any fuss. This is because all stakeholders are aware that dispositions and institutions (including the Financial Intelligence Unit (FIU)) exist under the law to tackle such matters and the law is definitely applied firmly but yet discreetly. Upon being found guilty as charged under the provisions of the law, the FSC, for example, issues a notice and identifies the party(ies) involved. Period.

**"We cannot pretend to be everything to everyone. Alternative substantial markets are far and few but the biggest promising one is on our doorstep i.e. Africa. Instead of diffusing our strengths by running after multiple objectives, it would serve us well to focus on our strategic pluses. The evolution of the global business sector in the foreseeable future will be tributary to the performance of our main markets: Asia (especially India and China) and Africa..."**

**"Utmost care should be taken to nail the culprits, if any, without shaking the edifice of an entire industry. Otherwise, the end result could well be a resoundingly bad "Ooops sorry!", counter damage claims, sullied reputation for the authorities and irreparable damage to reputation of individuals, until-now-successful firms, the staff and their families and to the jurisdiction of Mauritius as a whole. The stakes are much much higher in the global business industry than in relation to our local drug lords..."**

A shareholders' dispute is a matter for the commercial courts to resolve. If the FSC is concerned in any way, then let's allow FSC to do its job. We need to wonder whether the potential reputational damage is as a result of the shareholders' dispute itself or rather in the way that this matter was brought in the public space by the disgruntled majority shareholder and the very public actions that followed thereafter.

A foreign shareholder in a company, disgruntled or not, thinks it fit to publicly criticise a critical regulator of a sovereign country, threatens to bring an entire jurisdiction into disrepute, accuses people who have to date enjoyed an excellent reputation... and all this before his case has even been established beyond doubt and while sitting very comfortably in a foreign land, far from the reach of our authorities... and gets away with it while we have already started to self-flagellate a critical sector of our economy which employs over 5,000 people including some of the most qualified professionals of our country and contributes about 4%

to our GDP !!

Should this foreign shareholder be proven right, he should definitely be given redress but damaging a sector, its professionals, MCs, its regulator and its integrity before such time is a matter of serious concern.

**\* A correspondent of this paper wrote last week that "the reputation of the jurisdiction is also at stake from matters, such as whether the necessary due diligence on company shareholders was carried out and whether the provenance of funds being used for carrying out investment was tested out and found to be clean and untainted by any malpractice and free from illegalities". In the light of the reputational risks involved and given that it is a sector which attracts international attention, especially when negative perceptions are aroused publicly, would you say that the time is ripe to refurbish the regulatory armoury of our global business sector?**

The regulatory armoury of our global business sector is already very robust, is in line with best international practice and has been assessed by international bodies several times. Applicants for business often complain that the armoury is too robust for their liking and way above the practice in competitor jurisdictions!

Let me hasten to add that the regulatory framework in Mauritius is also not static and is reviewed from time to time... sometimes too often and not to the liking of our clients and operators.

The global business sector is a highly technical one and the due diligence procedures that you mentioned ought to be applied with discernment, i.e. sometimes reduced due diligence may be appropriate while at other times enhanced due diligence is warranted. Operators provide training to staff regularly, often at high costs payable in foreign currency to visiting trainers and FSC contributes by issuing guidance notes, rules or codes. My point is that the mode of operation of this sector is bound to look complex to someone who is profane or uninitiated in this line of business. It is advisable that the police, while investigating a matter relating to the practice and procedures in place in the global business sector, should consider drawing on the technical input and guidance of FSC or other appropriate expert to form an informed opinion of the matter at hand.

Having said this, I concede that, like most people, I am not privy to the information that the authorities have in their possession and on the basis of which they are acting.

**\* Some have even spoken of merging the FSC with the BoM, using this mishap as an excuse. Do you really believe that the solution to problems of the sort lies in a merger of the banking and non-banking regulators? How could such a merger avoid recurrence of accusations of alleged forgery or of the emergence of malpractices such as the Ponzi schemes which came to light some time back?**

Based on newspaper reports, in my view, the recent Ponzi scheme malpractices do not have even an iota of connection with financial services nor with financial services professionals. At best, they seem to be a very crystal clear case of bad business deals turn sour which was bound to happen at some stage!!

In my opinion, if a review of the regulatory framework is indeed contemplated, then the foundation of the debate cannot be the Ponzi schemes debacle otherwise the danger is that a flawed decision may be reached and cause greater concern.

In any case, knee-jerk reactions should be avoided and any such proposal should be widely considered by all stakeholders carefully without unreasonable time constraints.

**\* It would appear that, besides other allegations that have been levelled in this matter, there is also one of "round-tripping". Now that's quite serious, and, if true, it can only add grist to the mill of the anti-DTA militants in India. Do you think the FSC has acted promptly enough to quell the allegation of supposed "round-tripping" firmly enough?**

Allegations of round tripping have been levelled against our jurisdiction since a long time now but have never been established in fact. In the absence of even one proven case, it would be fair to say that such allegations (of "round-tripping") arise from the figment of the imagination of certain people who have nothing to lose and nothing by which to prove their allegation either but they do so because of their own agenda. This present allegation should be viewed as being just a cut from the same cloth.

Should any wrong doing be eventually established on account of round tripping then the law shall take its course but until then we should reserve our judgement.

The FSC has indicated that it is continuing its investigation and I am sure that it will publicly issue a notice with respect to its findings in due course. The industry has advocated that investigations should be carried out firmly, albeit discreetly, and we cannot now complain that FSC is not publicly voicing out its findings when they are still at a stage of "work-in-progress"!

I concede however that perhaps the FSC should consider to unambiguously inform a complainant privately that his grievance is being evaluated and that any necessary actions, if warranted, under the law will take its course. Should no further action be warranted, the FSC should clearly inform the complainant accordingly. This will avoid the perception that nothing is being done and reassure clients using our global business sector that FSC does act on legitimate complaints to protect their interests. This practice may already be followed by FSC although the complainant in the Kross Border case seems to suggest that it is not.

**\* A number of management companies in our global business sector have taken objection to the refurbished**

Enforcement Authority of the Asset Recovery Unit which comes under the umbrella of the Director of Public Prosecutions' Office. The DPP has provided justifications for seeking information from financial institutions with respect to any management company; it has been stated that such provisions already exist in our Statute Books dealing with dangerous drug trafficking. Do you consider that the added powers of probe without seeking prior clearance from a judge to go into confidential information is unwarranted?

If we begin treating global business professionals on a par with drug lords then we are truly done as a sector. Period.

We market the Mauritius jurisdiction overseas as a place where there is the rule of law, where the ultimate court of appeal is the Privy Council and where legitimate confidentiality is assured. The fact that prior clearance from a judge to go into confidential information is not required runs diametrically opposite to the above contention of rule of law, etc., and consequently it becomes embarrassingly difficult to respond to probing queries on this matter from applicants for business and their legal advisors.

Is it so difficult to gauge how the right to seek information from financial institutions without the sanction of a judge will be viewed by those whom we wish to invite to come do business in Mauritius?

Several local resident directors sit on boards of companies which are listed overseas or locally and which bank with international banks in Mauritius and worldwide. Is it difficult to realise the potential for damage when reports to overseas



ever faced with a global recession save for certain countries in Africa. Even the largest economy in Africa, South Africa, is struggling hard to put things neatly back into shape. Latest statistics from FSC show an increase in companies targeting Africa and FDI flows to Africa have indeed increased.

**\* Have we been building up alternative substantial markets for our global business sector? Have we been creative enough to go for business significantly enough in other places by innovating and enhancing the scope of the sector?**

We cannot pretend to be everything to everyone. Alternative substantial markets are far and few but the biggest promising one is on our doorstep i.e. Africa. Instead of diffusing our strengths by running after multiple objectives, it would serve us well to focus on our strategic pluses.

The evolution of the global business sector in the foreseeable future will be tributary to the performance of our main markets: Asia (especially India and China) and Africa.

The strategic location of Mauritius allows it to rightly position itself as the gateway for investment in India and Africa. Africa has great unexploited potential and has steadily been attracting billions of FDI. We can therefore be and indeed are becoming India's favourite platform to do business in or invest in the African market. Several global multinational companies are already accessing Africa through Mauritius.

Innovation is through new products which have been proposed while others are in the pipeline but perhaps a game changer would be improved physical, internet, maritime and airline connectivity to the African continent coupled with infrastructure development in Mauritius.

**\* Singapore's financial services industry is doing fairly well, no doubt better than Mauritius, despite the lack of the special benefits accruing to investors from the India-Mauritius treaty. Is there an important gap to fill in the case of Mauritius to drive as hard as a jurisdiction like Singapore has been doing?**

Focusing solely on the financial services industry, it is a fallacy to think that Singapore does not benefit greatly from India related business on the back of the Singapore-India DTA. Singapore negotiated firmly and steadily with India to get a treaty similar to that India has with Mauritius but unsuccessfully. It then resigned itself to accepting the next best DTA possible. For a long time, its DTA failed to impact materially business and investment flows from/to India. It is only due to the systematic unfair and unproven criticisms from certain quarters against the Mauritius-India DTA, the proposal of GAAR in India and the sustained PR campaign of Singapore that Singapore gained some grounds on us. Despite all this, Singapore is still lagging far behind Mauritius in bringing FDI to India save during a couple of "blip" months!

We must concede however that Singapore is much better than us at their PR effort which they do at great costs and this is driven both by senior Singaporean ministers including their PM, several times, and by the private sector. The Singapore government investment arm, Temasek Holdings, invests billions of dollars itself in India and expects quid pro quos from India.

The role of so-called professional tax advisors or consultants in India must also not be underestimated. Many law or accountancy firms have set up offices in Singapore and they have been playing up the GAAR threats in favour of Singapore and against Mauritius, albeit it is unwarranted, in a very blatant manner. They prefer Singapore to Mauritius because of ease of access from India, better infrastructure than Mauritius and the fact that several MNCs are already set up there, so a captive market already exists.

So yes, we have a lot to learn from Singapore!

**\* In an article, The Economist recently commented that Mauritius has been doing well in offshore business thanks to the supply of a host of administrators and legal practitioners. Are you satisfied that we've been doing our bit to nevertheless bring about an element of re-engineering by constantly innovating products and services in this highly competitive sector rather than, as The Economist suggests, merely banking on our pool of surplus accounting and legal skills?**

I did not realise that the fact of having a pool of qualified professionals, larger than the indigenous population in each of the British Channel Islands is a bad thing! We do not have natural resources so our talents are our resources and there is no harm to nurture a good bunch of them around! The objective of Mauritius since the setup of the offshore industry has been to look outwards to provide professional services to the world including increasingly so at present to Africa.

We can never be satisfied that we have or are doing enough to grow our markets because we die if we assume that we've done enough. Efforts are certainly under way and we ought to definitely do more.

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**"For a long time, Singapore's DTA failed to impact materially business and investment flows from/to India. It is only due to the systematic unfair and unproven criticisms from certain quarters against the Mauritius-India DTA, the proposal of GAAR in India and the sustained PR campaign of Singapore that Singapore gained some grounds on us. Despite all this, Singapore is still lagging far behind Mauritius..."**

exchanges or head offices are made about the inquiry... damage inflicted upon both the company and the individuals concerned?

When we consider the fact that this matter definitely also concerns the foreign directors or officers on companies in Mauritius who may also be subjected to such inquiries, on a par with drug addicts of all types, the risks faced by our industry are exacerbated multi-fold!

Having said this, it is also true that reputable financial services firms or professionals may also be involved in fraudulent activities and convicted like Rajat Gupta, board member of US firm, Goldman Sachs. However, in this case, the investigation was conducted by FBI (not local police) and only after a painstaking investigation involving expert collaboration that he was nailed and arrested given that a strong case supported by undeniable evidence was filed against him. My point is utmost care should be taken to nail the culprits, if any, without shaking the edifice of an entire industry. Otherwise, the end result could well be a resoundingly bad "Ooops sorry!", counter damage claims, sullied reputation for the authorities and irreparable damage to reputation of individuals, until-now-successful firms, the staff and their families and to the jurisdiction of Mauritius as a whole.

The stakes are much much higher in the global business industry than in relation to our local drug lords or similar and this territory should be treated with utmost care!

**\* As for the India-Mauritius double taxation treaty, even though the Indian authorities have intimated through Finance Minister Chidambaram that India is not going to propose any unilateral revision of the treaty "due to a host of economic, political and diplomatic reasons", the element of uncertainty has set in in everybody's mind, especially investors intending to go into India. Even if the going is relatively smooth for now, this is not likely to last forever, don't you think?**

Mauritius has requested that the next Joint Working Group meeting should happen soon enough and proposals, I understand, have been made to India. We would definitely wish to settle this matter once and for all. Perhaps a political intervention at the highest level on both sides might go a long way to settle this issue in a mutually beneficial manner.

**\* Now if the privileged position Mauritius has found itself in (thanks to the DTA) may not last for ever given the way things have been building up for some time, what are the options available to our global business operators if all this were to come to the crunch?**

Mauritius has been working assiduously to diversify its offerings and markets since the last 10 years now although with renewed vigour since the last few years. We are how-