

**TRIBUTE TO THE MEMORY OF SIR CASSAM ISMAEL MOOLLAN**

**ON MONDAY, THE 29<sup>TH</sup> NOVEMBER 2010**

It is with deep emotion that we hold this special sitting this morning in order to honour and to pay tribute to the memory of Sir Cassam Ismael Moollan, former Chief Justice of Mauritius, who passed away on 15 November 2010. I was in Banjul, Gambia, attending a session of the African Commission on Human and People's Rights when I learned of the sad news.

Let me, at this juncture, in my personal name and on behalf of my brother and sister Judges who are by my side, of Honourable Peeroo who has had a mishap this morning and cannot be with us, of Honourable Domah and Hajee Abdoula who are away from Mauritius, offer the deepest condolences of the Judiciary to late Sir Cassam's family.

Cassam Ismaël Moollan was born in Port Louis on 27 February 1927. His initials (C.I.M.) earned him the nickname CIM (pronounced KIM) by which he was affectionately known to all those who were close to him. He attended Royal College Port Louis and Royal College Curepipe for his secondary schooling before proceeding to London for further studies. He received his bachelor degree in law at the London School of Economics and Political Science in 1950 and was called to the Bar at the Lincoln's Inn in 1951.

Following his return to Mauritius in the same year, he practiced at the Bar until 1955 when he joined the judiciary as a Magistrate. In 1958 he was chosen from among the Magistrates to move to the then Crown Law Office where he served with much distinction as Crown Counsel from 1958 to 1964 and as Senior Crown Counsel from 1964 to 1966. He was appointed Solicitor-General in 1966 and lived through that crucial period of our legal and constitutional history which witnessed the transformation of Mauritius from a colony into a newly independent and sovereign state. Sir Cassam, along with his colleagues of the Parquet, which included Sir Henry Garrioch, Sir Marc David, Sir Victor Glover, Rajsoomer Lallah and Edwin Venchard, constituted that new generation of Mauritian lawyers who brought a vital contribution in the making of our laws during the independence period.

Sir Cassam took silk in 1969 and was promoted as a Puisne Judge of the Supreme Court in 1970. He became Senior Puisne Judge in 1978 and was appointed Chief Justice in 1982. He served as Chief Justice until his retirement in 1988. Sir Cassam was knighted following his appointment as Chief Justice in 1982 and, in 1986, he was elevated by the French Government to the rank of Chevalier de la Légion d'Honneur. He also acted as Governor-General on various occasions between 1984 and 1988.

In 1961, to mark the historical occasion of the centenary of our law reports, Sir Rampersad Neerunjun, then Chief Justice, wrote an article which appears as the foreword to that Special Edition of the Mauritius Reports. He concluded his article by paying a fitting tribute to the young Cassam Moollan in the following terms:

*'I wish to conclude this foreword by rendering unto Caesar what belongs to Caesar. The idea of a special edition to mark the centenary of our Law Reports was suggested to me by Mr. C. Moollan, the most junior of the Law Officers of the Crown. If this fact has to be given any significance, let it be that it reveals the pride of the younger generation of lawyers in the prestige of our legal institutions. Let us place our faith in them and hope that when the present judges of the Supreme Court will have handed over the precious heritage left by those who in the past have adorned the Bench with so much distinction, this handsome patrimoine will not have been impoverished.'*

Sir Rampersad Neerunjun was to be proved right in all respects as Sir Cassam embarked into a brilliant and distinguished career at the Supreme Court. Endowed with a process of fine intellectual reasoning, he has been able to produce an impressive number of authoritative judgments.

They always reflect meticulous research and an almost obsessional desire to leave no stone unturned in striving to obtain the correct answer and to attain the truth. I can but only refer to some of his judgments which were always articulated in the same limpid style:

In **Roussety v. The Electoral Supervisory Commission [1982 MR 208]**, Sir Cassam unravels with his usual dexterity the intricate and complex constitutional provisions relevant for the purposes of determining the allocation of the 8 additional seats to unsuccessful candidates following a general election.

The case of **Director of Public Prosecutions v Joomun [1983 MR 63]** (which is also reported in the Commonwealth Law Reports) is another illustration of the sharp and probing intellect of Sir Cassam in dissecting the fine legal points which were involved. Sir Cassam carries out an in-depth analysis of the meaning of '*autrefois acquit*' and '*autrefois convict*' as a bar to a subsequent prosecution before setting out in a succinct manner the application of these legal principles.

**Basenoo v. Queen [1983 MR 99]** provides a further example of his exceptional judicial creativity. This time, in relation to the law applicable to the competence and admissibility of the evidence in a criminal case of a child witness under the age of nine.

I have had the immense privilege to appear as Counsel before Sir Cassam on several occasions. He was a no non-sense judge, a man of principle and unquestionable integrity who was always uncompromising in upholding and exacting the highest standards in Court and in the practice of the law.

Sir Cassam was a stickler for principle and would never tolerate any shortcoming in decorum but was, however, always imbued with a spontaneous sense of fairness. I had the privilege of appreciating this first hand when I served as Master & Registrar during most of the years that Sir Cassam was Chief Justice.

All those who have known Sir Cassam would surely remember his courtesy, his sense of humour, his jovial mood and easy communication and his in-depth humanism. Those sterling qualities came prominently to light during the celebrations marking the Bi-centennial Anniversary of the Mauritius Bar in 1987 when Sir Cassam was the Chief Justice.

Sir Cassam was also deeply attached to his family. I understand that he was extremely happy when his grandson Asif passed his bar exams and was looking forward to see him join the legal profession.

Sir Cassam will always be remembered for his lifelong mission dedicated to the service of law and justice. He has throughout strived to preserve the dignity of our judiciary and the respect that it should inspire and has played a significant part in the up-keep of the rule of law in accordance with the democratic ideals enshrined in our Constitution. He has adorned the bench with much distinction and there is no doubt that he would continue to be an outstanding inspirational figure for many generations to come.

Sir Cassam will be greatly missed by all of us who had known him.

At this time of grief and sorrow, I extend, on behalf of the judiciary and in my personal name, our deepest condolences and sympathy to Lady Rassoul Moollan, who has been his close and beloved companion for the past 56 years. We also extend our profound sympathy to Sir Hamid, Anwar, Iqbal and Mahmud and Salim Moollan and all the other members of the bereaved family.

**Y K J Yeung Sik Yuen, G.O.S.K.**

**Chief Justice**