

### Views on the scope and application of the principle of universal jurisdiction

Mauritius has no legislation (as is the case with most countries) which caters specifically for its courts to have universal jurisdiction, nor does it recognise that foreign courts may exercise such jurisdiction over matters which fall under the competence/ jurisdiction of local courts. Our Courts have territorial jurisdiction unless the law expressly provides for extraterritorial jurisdiction, as in the following cases:

#### **(a) The Dangerous Drugs Act**

It is an offence for any person, in any place outside Mauritius, to do an act preparatory to or in furtherance of the commission of an offence which falls under the Dangerous Drugs Act. The relevant section reads as follows:

##### *29 Penalty for unlawful activities*

(1) (...)

(2) Any person who –

(a) in Mauritius aids, abets, counsels or procures the commission in any place outside Mauritius of an offence, which if committed in Mauritius would be an offence against this Act and which is punishable under any corresponding law in force in that place;

(b) in any place outside Mauritius does any act preparatory to or in furtherance of the commission in Mauritius of an offence against this Act,

shall commit an offence and shall on conviction be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 15 years.

#### **(b) The Prevention of Terrorism Act**

Section 30 of the Prevention of Terrorism Act provides for the extra-territorial jurisdiction of Mauritian courts to try specific offences under the Act where these have been done or completed outside Mauritius and where such offence may be linked to Mauritius or to a citizen of Mauritius.

**Section 30:** "A Mauritian Court shall have jurisdiction to try an offence and inflict the penalties specified in this Act where the act constituting the offence under sections 3, 4, 5, 6, 7, 12 and 15, has been done or completed outside Mauritius and -

(a) the victim is a citizen of the Republic of Mauritius or has an effective link with Mauritius or is dealing with or on behalf of the Government of Mauritius;

- (b) *the alleged offender is in Mauritius; or*
- (c) *the alleged offender is in Mauritius, and Mauritius does not extradite him."*

**(c) The Merchant Shipping Act**

Mauritian courts are given the power, under this Act, to try offences and inflict penalties where a person who is charged with having committed an offence under this Act is found within the jurisdiction of Mauritius, provided that the person is either (1) a Mauritian citizen having committed the offence on board any Mauritian ship on the high seas, in any foreign port or on board any foreign vessel to which he does not belong or (2) is not a Mauritius citizen but is charged with having committed the offence on board a Mauritius ship on the high seas or, in the case of a stowaway, in a foreign country.

It is also an offence for a master or seafarer, who is employed on a Mauritian ship, to do any act or omission in relation to property or person, done outside Mauritius, and which would constitute an offence under the laws of Mauritius. The Mauritian courts would in this case also have jurisdiction to try that person.

*218. Jurisdiction in criminal matters*

*(1) Notwithstanding section 114 of the Courts Act and section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act, a Magistrate shall have jurisdiction to try an offence under this Act and may impose any penalty provided under this Act.*

*(2) A Court shall have jurisdiction respecting offences under this Act over any vessel being on, or lying or passing off, the coast of Mauritius, or being in or near any bay, channel or navigation water in Mauritius and over all persons on board that vessel or for the time being belonging to it.*

*(3) Where a person who is charged with having committed an offence under this Act is found within the jurisdiction of a Court in Mauritius, the Court shall have jurisdiction to try the offence where the person –*

- (a) is a Mauritius citizen and is charged with having committed it –*
  - (i) on board any Mauritius ship on the high seas;*
  - (ii) in any foreign port or harbour; or*

- (iii) on board any foreign ship to which he does not belong; or
  - (b) is not a Mauritius citizen and is charged with having committed it on board a Mauritius ship on the high seas or, in the case of a stowaway, in a foreign country.
- (4) Any act or omission, in relation to property or person, done in or at any place, ashore or afloat, outside Mauritius by a master or a seafarer who, at the time, is employed on a Mauritius ship, which, if done in Mauritius would be an offence under a Mauritius law, shall be treated as an offence under that law and a Court shall have jurisdiction to try the offence.

**(d) Courts Act**

Section 134 of the Courts Act provides for the special jurisdiction of Mauritian courts to try offences committed on the high seas where the alleged perpetrator is found in Mauritius or where the offence takes place on board a ship or aircraft registered in Mauritius.

*134 Special jurisdiction*

- (1) Where an offence punishable under any enactment –
  - (a) is committed on the high seas and the person charged with, or suspected of having committed, the offence is in Mauritius; or
  - (b) takes place on board a ship or aircraft registered in Mauritius,the appropriate court shall, subject to subsection (3), have jurisdiction to try the offence and to award the penalties the court is competent to inflict.
- (2) Any offence to which subsection (1) applies shall, for purposes of venue, be deemed to have been committed in the District of Port Louis.
- (3) Where any offence to which subsection (1) applies is –
  - (a) not triable by the Intermediate Court;
  - (b) outside the summary jurisdiction of a District Magistrate,the person charged with the offence shall be brought before the District Magistrate of Port Louis who shall, in accordance with Part II of the District and Intermediate Courts (Criminal Jurisdiction) Act, hold a preliminary inquiry, and, if the evidence so warrants, commit him to stand trial.

**It is to be noted also that Mauritius has ratified the Rome Statute for the International Criminal Court on 5 March 2002, and that at present the International Criminal Court Bill is in the process of being finalised.**