



ಮಹಾತ್ಮಾ ಜಯಂತಿ ದಿನ

ಮಹಾತ್ಮಾ ಜಯಂತಿ ದಿನದ ಸ್ಮಾರಕ

ಜಿಲ್ಲಾ ಶಾಸನ ಸಭೆ 40 ನೇ ಸಭಾಧಿವೇಶನ

20 ನೇ ಸೆಪ್ಟೆಂಬರ್ 2019

ಸಭಾಧಿವೇಶನದ ಸಮಯ: ಮಹಾತ್ಮಾ ಜಯಂತಿ ದಿನ (ಸೆಪ್ಟೆಂಬರ್ 20, 2019)

11:00 ಗಂಟೆಗೆ

Before we begin the meeting, I'll give you a brief introduction of our consultant and the project that we are carrying on. MS Maya Bolocan is an international lawyer was specialized in judiciary reform. The assistance we are seeking from American bar association is that we want to improve or rather say establish a performance appraisal mechanism for judges. Second thing we want look into the appointment mechanism that we have in place. And thirdly look in to the complains and investigation role. Which is mainly the three main role of JSC. The reason we wanted sit-down with the judiciary committee is to have an understanding of the judiciary reform and the expectation that you have from J.S.C in the judiciary reform process. I'll let Maya continue from here. Thank you.

Judicial reform expert Ms. Maya Bolocan speaking:

So, I am very pleased to be here today. Thank you very much for inviting me, It's an honor. As it was mention we are assisting the judicial service commission with expanding on selection criteria procedures establishing an efficient system for the abbreviation of judges in the country and also establishing complains mechanism the importance of these mechanism cannot be overestimated. They are very important for ensuring the quality both the quality and accountability of the judiciary. And as it was mentioned I would like to have your opinion and secure comments and suggestions in terms of what issues should be considered in undertaking this task and also any questions you may have regarding this project. Thank you.

Chairman speaking:

Thank you very much. On behalf of the parliament judiciary committee I would like to welcome you to the committee. At a time when Maldives is in a process of judicial reform, we are happy to meet you and we are happy to welcome you to the Maldives as the judicial service commission is conducting oversight of the judiciary, judicial judges conduct. And before we proceed, I would like to ask the members of the judiciary committee to get themselves introduced starting from my...

Villingilli constituency member Saud Hussain speaking:

Yeah, my name is Saud Hussain. I am from villingilli constituency, the south atoll of Maldives. This my second term. Thank you

Henveyru uthuru constituency member Ibrahim Muizzu speaking:

My name is Ibrahim Muizzu. I am from Male' area. I am a member of Maldivian Democratic Party.

Kanditheemu constituency member Abdulla Shaheem Abdullhakeem speaking:

I am Abdulla Shaheem Abdullhakeem, Kanditheemu constituency upper north. And I am a Maldivian Democratic Party member. Thank you

Kendhoo constituency member Ali Hussain speaking:

My name is Ali Hussain and I am representing Kendhoo constituency. Its located in Baa Atoll and this is my second term as in. Thank you

Hinnavaru constituency member Jeehaan Mahmoodh speaking:

My name is Jeehaan. This is my first term as an MP. And I represent one of the northern constituencies. And I also chair the human rights and gender committee.

Chairman speaking:

Together with me. My name is Imthiyaz Fahmee. And I am representing one of Male' constituency which is called Maafannu North. This is my third term in parliament. Previously I worked with the penal code review committee as well as secondary legislation committee. This is a newly formed committee. This is the first time that the parliament is having a committee, an oversight committee on judiciary. The primary mandate of this committee is to oversee the judicial service commission as well as some of the agencies of the judicial sector. As well as for example some institutions such as prosecutor general, the prosecutor general and many more other independent institutions with regard to the judicial sector. If the members of the committee would like to express their views the floor is open to them. The media is just for a brief catch up of the meeting. They will not be bringing it live or the details of the meeting will not be broadcast.

Hinnavaru constituency member Jeehaan Mahmoodh speaking:

Thank you. With regards to the three areas that you are looking at to the appointment mechanism, complains and investigations at judicial services commission and the establishment a of an effective appraisal system with regards to the judiciary I think from my prospective it is really important to, for one thing to try and close the competency gap between the magistrate courts and; between the magistrate courts located in the islands and that of the courts here. It's clearly, we are getting a lot of cases and we are also, a lot of cases have been brought to our attention where the

competency gap is quite evident. And so, the appraisal mechanism I believe should be a good avenue to try and close the gap and also even the appointments mechanism where we make sure that competent judges preside over magistrate courts as well. Because there are so many cases that come to the human rights and gender committee, where I sit other than this committee. It's very clear that a lot of cases relating to children, women, people with disabilities they often end up being appealed in appellate courts or higher courts. Because there are so many procedural and other clearly the judge's competency related issues in the magistrate courts they face. So it's definitely a look at the appointments mechanism and the appraisals and also even the complains from the perspective of the most vulnerable groups and how the judicial system can cater better to these groups and have mechanisms in place where a first judges and magistrates are competent to address the issues of the vulnerable especially specialized vulnerable groups. Groups such as the persons with disabilities I think very important. At the same time during this small period we have had looking into systemic issues and issues that come to JSC. I am for one very concerned with regards to the allegations of sexual harassment and gender-based violence by the presiding judges and the magistrate towards the staff, other staff in judiciary. And I believe it is very important for one appraisal system and also the appointments mechanism have indicators or have avenues to very clearly that look at whether, well they make sure that they appraised on the basis of their training on gender based violence, sexual abuse, sexual abuse and other related fields, other related areas of training that would perhaps help preventing these issues. Secondly and also the complains mechanism should be tied very closely with appraisal system where every time a judge has been appraised or we are looking at an appointment the complains mechanism is a tool that is used to assess the integrity of the judges and the appointees. That's all I have to say at the moment. Thank you.

Chairman speaking:

Thank you, Miss Jeehan. Anybody else? An independent and an honorable judiciary has never been of central importance to the Maldives judges and judiciary these years. Any accusation any allegation against those judges they will just dismiss it. Appearing to be that there are the boss and you cannot do anything against us. So, this is the justification they have always shown to the people of the countries. For that very reason people have lost complete confidence and trust in the judiciary. So, the new government came in on a mandate with a bringing about judicial reform as well as the new parliament was elected on that mandate. So, we are in the process of bringing about judiciary reform and bringing about changes to the legislation required. We have so far been able to bring amendment to the judicial service act and we have so far been able to legislate bar council legal profession bill. We have so far within this short period of

time been able to do a lot of things. Specially the parliament have dismissed supreme court justice after the judicial service commission have advice the parliament to do so. That is with regard the conduct of a supreme court justice. The people of the country as well as international community have lost faith in the judiciary, they have been calling for judicial reform in fact radical transformation of the supreme court and the judiciary. So, it's a huge task is to be carried out in parliament and with the other judicial with other independent institutions with regard to the judiciary.

Judicial reform expert Ms. Maya Bolocan speaking:

I have some follow-up questions. So, thank you very much for mentioning the issue of gender-based violence and the treatment of vulnerable communities and individuals by the justice system. So, I have a question regarding training, capacity building. You mentioned rightly that training is essential into include into sensitize the judiciary and beyond the judiciary on this issue. Has these ever been undertaking here in the Maldives? Training for judges specifically tell them to not only educate on gender-based violence relevant laws but also on the attitude of judges and mentality that....

Hinnavaru constituency member Jeehaan Mahmoodh speaking:

Information regarding anything to do with the judiciary has been really difficult to obtain in the past years. So, it's at the moment very difficult for us to say they had this many trainings, so they haven't had any training on gender-based violence or gender issues or vulnerability issues. But I used work previously in the human rights commission and continuously our attempts to conduct any sort of trainings or any sort of sensitization, orientation programs with the judges for the judges I have been rejected. And I don't know if that is a case now. It's very difficult to approach judges for any sort of training. We have tried to call orientation. We have tried to call that a sensitization program. We have tried to call it discussion, but it's been very difficult. So, I don't know if that is the case now or, but I am also talking about 5 to 6 years, the situation 5 to 6 years ago. So, but that is my experience previously and currently also getting an information on the kinds of trainings that they have had I guess only the JSC now only now have that kind of access or avenue to get that information. We haven't really as judiciary committee attempted to get any information on the trainings that they have had therefore and also to get an understanding of whether they had trainings on the area of concern on GBB or vulnerable groups. But I think it's something to clarify. So, the point is we don't really know but from what we know it's very difficult to have conduct any trainings for whatever.

Judicial reform expert Ms. Maya Bolocan speaking:

Who is responsible for training? Is it the...

Judicial Service Commission representative speaking:

Actually, when the judicial service commission act enacted it is responsible for the judicial service commission, but supreme court abolished that article and they take their responsibility. And your question, I think juvenile justice system has, they carried out some training for the magistrates during the past years regarding those issues. The main reason is that chief judge is responsible for the training of the judges. Until the current amendments follow. It is in September 5th, I think.

Hinnavaru Constituency member Jeehan Mahmood speaking:

Judicial Academy is formed specifically for that purpose. For the trainings and sensitization orientation programs of the judicial sector. And the judicial academy has been under the directorship of the chief justice, up until the recent amendment by the parliament. Where now not directly under the supreme court or chief justice but JSC rather.

Judicial Service Commission representative speaking:

Judicial academy now reports to department of judicial administration who reports to the commission. So, judicial academy is responsible for carrying out professional training and awareness programs and for the continuous professional development of judges.

Judicial reform expert Ms. Maya Bolocan speaking:

And I have also some questions regarding the you underline how indeed judicial the complains make any reason and performance evaluation or appraisal of judges are inter related and how they should co-exist in a system that is balanced and provide for tracks on the work of the judiciary on the quality of justice. So, to this date I understand that there is no system for complain against judges. However, I also understand that some mechanism and some actions have been undertaken in this area, so I was wondering how this is been carried out in practice.

Chairman speaking:

Judicial misconduct cases can be reported to the judicial service commission. The previous legislation gives this mandate to the JSC. And the new amendment makes it stronger and better. So, far the judicial service commission has worked very weakly. They have been very week. But now they are quite active we must say. When the new constitution came in place in 2008, it required that during the interim period judges, the

sitting judges should be, they should be analyzed, they should be vetted as well. But the supreme court annulled the, they interpreted that clause as symbolic, so the Judicial services commission wasn't able to carry out this process. For that very reason, judges who were accused of gross misconduct they were sitting, they have been sitting even now in the judiciary. So, the judicial service commission should now conduct these cases should not look into these cases. The legislation provides them to conduct these sorts of cases. So, if the judicial service commission do their job well, I think we are going the right way.

Villingili constituency member Saud Hussain speaking:

We have a very much talked about this judiciary. A lot of, long history we have been in democratic transformation in 2008, and before that I think I can comment on this, still we are suffering the same situation. So, the thing is we have received new act and everything. But we didn't receive the democratic judicial system. So, I am the one who victimized in last parliamentarian duration among the 12 MPs from the supreme court they have verdict, automatically we lost our seat and we are not allowed to enter the parliament. And sometimes after 6 months and 9 months again the verdict is changed. This is the same thing happening. And in before 2008, the new constituencies I like to mention the problem is we all know the real situation. But we are not trying to reform it. We are trying to control this. All leaders, they may need control, I don't know why this is happening. So, in 2008 we started newly elected all the bodies from the, but the judiciary the remaining same. Government is elected and the majority of the parliament was opposition on the government at that time after 2009. And the political stability is lost. Again 2014 we elected the government and we got the government majority. We have ruled 2 or 3 years with these political stabilities. And the benefit of that parliament majority the government controlled the judiciary. This is the main issue. This is the main issue is that I think this JSC, Judicial Service Commission formation. Once the government is elect again the parliament is elect the majority with the government and parliament is same party or already joined parties, they will control judiciary. Judiciary is victimizing every time. This is the main issue. So, how we could independent, we need independent judiciary. But how? All will control, the same thing is happening now also. Before, earlier as well. So, this is my experience, my concern. I am representing as an independent candidate, I feel this. Before I was the one who control the majority at that time, thus ruling party. And I leave again for those things that there enjoying with the parliament majority. They changed so many laws and everything. So, these things happen. So, we need independent judiciary. Which was balanced, not controlled. So, this is my concern. So, in this constitutional we have seen chapter 7 and article 158. Speaker is sitting from parliament 2 seats are sitting and president is appointing and

civil service commission, the one who appoint from parliament also sitting. And from the public one member is approved by parliament. So, 6 seats are controlled by the ruling party or ruling coalition with the government and with the parliament. So, judiciary is alone. Judiciary is alone in this situation. So, what can they do? This is the situation, so we need reform. We don't need control. This is my comment.

Chairman speaking:

Thank you, MP Saud. Very concerned about a clause in the judges act which says that a conviction or a gross misconduct can be looked into only if it is within the period of 7 years. Past 7 years cases cannot be looked into. For that reasons, when a case is logged against a judge, sometimes JSC have to decide this case, this misconduct was before those 7 years period. So, they do not have a mandate to look into this sort of cases. And action cannot be taken against that judge. So, we have...

Judicial reform expert Ms. Maya Bolocan speaking:

Time limitation is in which article? Judges act.

Chairman speaking:

So, we have the committee now have recommended the JSC together with the parliament we amend that clause.

Judicial reform expert Ms. Maya Bolocan speaking:

Thank You very much. This is been very informative, and I really welcome the opportunity maybe to discuss with you further on some of these issues. I understand some disciplinary proceedings have also been undertaken recently. And if you would like to provide some information or some background on these proceedings, I would be proceeding and learning more about it.

Chairman speaking:

Thank You very much. We are very happy that the JSC made this arrangement to meet with you. And we wish you a good stay in the Maldives. And together, I believe I have, I believe that we can bring about changes to the judiciary and make the judiciary more an institution that people have confidence in. We are very much thankful to you for meeting with us today. Thank you.

Judicial reform expert Ms. Maya Bolocan speaking:

Thank you and thank you very much. Have a good day.

اگرچه در بسیاری از موارد، این روش‌ها می‌تواند به بهبود کیفیت خدمات و رضایت مشتریان منجر شود. اما در صورتی که این روش‌ها به‌درستی اجرا نشوند، می‌تواند به کاهش رضایت مشتریان و افزایش شکایات منجر شود. بنابراین، باید به‌دقت در اجرای این روش‌ها دقت داشت.
