

{بہتر معاشرے اور بہتر ملک کے لیے؛ سب سے اعلیٰ ترین ذمہ داریاں اٹھانے کے لیے ہمیں مل جل کر کام کرنا پڑے گا}

مہمانوں کی خوش آمدید:

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ . ریڈسٹر ممبرانہ اہلسیما اعلیٰ ترین سطح پر 19 ویں نشست منعقد ہوئی . نشستوں کی کارروائی 11 بجے شروع ہوئی . ریڈسٹر ممبرانہ اہلسیما نے اپنی تقریر میں کہا کہ ہمیں ایک ایسے معاشرے کی تعمیر کرنی ہے جہاں ہر فرد کو اپنی جگہ ملے اور ہر فرد کی حق شناسی ہو .

ان کے بعد ریڈسٹر ممبرانہ اہلسیما نے 2 بجے اپنی تقریر شروع کی . ان کی تقریر میں انہوں نے کہا کہ انسانی حقوق کی تحفظ کے لیے ہمیں مل جل کر کام کرنا پڑے گا .

3 بجے ان کی تقریر ختم ہوئی . ان کی تقریر کے دوران انہوں نے کہا کہ انسانی حقوق کی تحفظ کے لیے ہمیں مل جل کر کام کرنا پڑے گا .

ان کے بعد ریڈسٹر ممبرانہ اہلسیما نے 4 بجے اپنی تقریر شروع کی . ان کی تقریر میں انہوں نے کہا کہ انسانی حقوق کی تحفظ کے لیے ہمیں مل جل کر کام کرنا پڑے گا .

ان کے بعد ریڈسٹر ممبرانہ اہلسیما نے 5 بجے اپنی تقریر شروع کی . ان کی تقریر میں انہوں نے کہا کہ انسانی حقوق کی تحفظ کے لیے ہمیں مل جل کر کام کرنا پڑے گا .

ان کے بعد ریڈسٹر ممبرانہ اہلسیما نے 6 بجے اپنی تقریر شروع کی . ان کی تقریر میں انہوں نے کہا کہ انسانی حقوق کی تحفظ کے لیے ہمیں مل جل کر کام کرنا پڑے گا .

ان کے بعد ریڈسٹر ممبرانہ اہلسیما نے 7 بجے اپنی تقریر شروع کی . ان کی تقریر میں انہوں نے کہا کہ انسانی حقوق کی تحفظ کے لیے ہمیں مل جل کر کام کرنا پڑے گا .

ان کے بعد ریڈسٹر ممبرانہ اہلسیما نے 8 بجے اپنی تقریر شروع کی . ان کی تقریر میں انہوں نے کہا کہ انسانی حقوق کی تحفظ کے لیے ہمیں مل جل کر کام کرنا پڑے گا .

ان کے بعد ریڈسٹر ممبرانہ اہلسیما نے 9 بجے اپنی تقریر شروع کی . ان کی تقریر میں انہوں نے کہا کہ انسانی حقوق کی تحفظ کے لیے ہمیں مل جل کر کام کرنا پڑے گا .

Hello and welcome to the Human Rights and Gender committee of 20th Peoples Majlis. Sorry, that my voice is not good today. Going through, it's a bad flu. But I didn't want to miss the opportunity of meeting you all. That's why I am here today. So, before we start with the normal things I would like to highlight a few things and before that our members will introduce themselves to you. And then the floor will be open to you all to share from your side whatever you have to share with us. And please introduce yourselves before speaking, that would be for the record, and it will be there. So, I will open the floor to the members and please note that today this meeting will be for like 30 minutes. Ok. Thank you so much.

Central Henveyru constituency member Hussain Nasih speaking:

My name is Hussain Nasih. I am Central Henveyru constituency.

Gahdhoo constituency member Mohamed Ali speaking:

I am Mohamed Ali, Gahdhoo constituency.

Huraa constituency member Anara Naeem speaking:



I am Anara Naeem from Huraa constituency. Welcome to our Human Rights committee. Thank you.

Kudahuvadhoo constituency member Hussain Hameed speaking:

I am Hussain Hameed from Kudahuvadhoo constituency.

Chairperson speaking:

Hussain Hameed is the vice chair of this committee, and I represent Nilandhoo constituency in the Majlis. Before we start there are several Acts already ratified by the government, previous governments. Which is in the interest of our topic today about child rights and all. We have a Child Rights Protection Act, which was ratified in 2019. Juvenile Justice Act of 2019, Special Provisions Act to deal with sexual abuse offenders of children, which was ratified in 2009. And Family Act of 2000. And there is also, Disability Act of 2010. So, directly related to child rights, these are a few acts that we speak about. But there are in other acts as well which you know, related with the child rights. So, there are special, according to the legislative agenda of the current government there are a few amendments which will be brought to some acts. And there are new acts which will be proposed as bills during this 5-year term. So, hoping to see a lot of like good bills which deals with the current problems and hoping to see lot of good bills which will help us to make a safe and protective environment for our children. I would like to open the floor for you all to share with us your experience about the laws and acts which is practiced in your countries which we maybe, you know, we maybe not be aware of or which may be helpful for us when passing and talking about and in debating about bills that is proposed to us. Thank you so much. The floor is open.

Children's Commissioner (OCC), the Human Rights Commission of Malaysia (SUHAKAM), Dr Farah Nini Dusuki Speaking:

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ My name is Farah Nini Dusuki. I'm the children's commissioner for Malaysia. I think what Malaysia is hoping to achieve, and I hope during my 10 years as well is of course the reform of some rights to children, which have been commented by the committee and the rights of the child as well after submission of two reports. So far, Malaysia has ratified their convention on rights of the child in 1995. So, there is 29 years now. And one of the key comments that we get; we have already reform some of the laws. For example, we have banned corporal punishment of children who have found guilty of committing crimes. We have done that in 2016. So, children



now cannot be caned in judicial settings. They cannot also be caned in institutions that protect them. And also, whether it's penal or otherwise. But unfortunately canning is still allowed in schools and we are hoping to get that out as well. Because at the moment there are mixed reactions to that. Because Malaysia as you know is highly influenced by Islam as 60% of our population is made of Islam and there has been some misconceptions of religious teachings and practices. And that is one of the lower hanging fruits of my office that is to correct, to advocate for the correct interpretations of prophetic traditions as well. So that is one. The other one is of course raising the age of marriage to 18 years old. Because at the moment 11 out of the 13 states stipulates that for girls it is 16 years old and for boys it is 18 years old. So only two states have raised the bar to 18 for both boys and girls. So, we hope to be able to raise this as well. But it takes separate advocacy because where laws pertaining to personal matters of the Muslims every state have got their own set of laws. And every state have got their own sultans. So, you have to convince the monarchy as well. So that's what my office does. We meet the rulers and the muftis separately to advocate why is it that we want to raise to 18. It is not to totally prohibit child marriage. But they will need to go to the Shariah Court to obtain permission and by doing so they need to finish at least three reports. 1- The criminal record. 2- Social report and the most important one the health report. So, this will be very strong safeguards for children in the future. And thirdly is of course the age of criminal responsibility. Because we have been colonized by the British many many years ago and because they still maintain 10 years old to be the age of the criminal responsibility with the Doli Incapax defense to 12, we still have it in our penal cord. And we have been advised by the committee on the rights of the child to raise it to at least 12 years old. But we really really are working very hard to raise it, to increase it and not to let it remain at 10 and 12. Because it is very wrong to punish children due to depravation. You know studies have been conducted elsewhere in the world to show that the reason why they come into conflict with the law is because of many other social issues in the first place. So, I think I will stop here for now because those are the priorities that the office of children's commissioner is really focusing on now. Thank you very much.

National Children's Commissioner, Australian Human Rights Commission, Anne Hollonds speaking:

My name is Anne Hollens. I'm Australia's National Children's Commissioner and I'm based in the Australian Human Rights Commission. Thank you very much for this opportunity. There were many things we could talk about, but I will just choose one. So,



this year I had tabled in our parliament a report called Help Way Earlier. How Australia can transform child justice to improve safety and well-being. This can be found on the internet if you put in Help Way Earlier. It will come up straight away and it is called that because I spoke to over 150 children around Australia in children's prisons or who are in contact with the justice system and many of them said, we need help way earlier. And so that's the story of this report that when children commit crimes, it is because that is a symptom of other problems that we are failing to address in my country. These are problems of poverty, of disabilities, mental health issues, learning problems, family dysfunction, drug abuse. All of those problems, these children are in the most vulnerable of circumstances and we are not addressing the problems early, then many of them come into contact with the child protection system and then I often say the next station on the train line or you know the next port of call for them is the criminal justice system and we are sitting back and letting that happen. So, we are in a way sacrificing most of the children in the most vulnerable of circumstances. That's why I had to do this report because it's the biggest breaches of human rights of children in my country. I'll just say one more thing about the age of criminal responsibility that in again because we also have that British heritage unfortunately. We have, and the criminal responsibility is managed in our states and territories. Not at the national government level. So, we have different ages but it's mostly 10 and sometimes 12. And I can tell you, and if you have a look at this report, it will show it is not working. It is not working to have a criminal age of solo because the data of the evidence from around the world which we have put in here shows that the younger a child becomes into contact with the police or the criminal justice system the more likely it is that that child will go on to commit more and more violent and more serious crimes. So, it's these children are coming back again and again and again. So, we have to be very careful about not allowing the children to be criminalized at that very early age. So, most of my work is trying to get my country to see and the government to see the value of raising the age and doing more to prevent the underlying causes of crime by children rather than just playing with the symptoms at the other end. It does not work. I can tell you that from Australia. Thank you.

Children’s Advocate of Jamaica and National Rapporteur on Trafficking in Persons,

Diahann Gordon Harrison speaking:

Good afternoon. It's good to be here. I am Diane Gordon Harrison. I'm an attorney at law by profession and I had a commission of parliament in Jamaica known as the Office of



the Children's Advocate. So, I am your ombudsperson, but I also have legal powers to institute proceedings in court if there are any breaches of children's rights that are identified. And I mention that because the more I speak and interact with children's ombudspersons from around the world, I realize that my office is a little bit unusual. So, while I do have the advocacy role, I make you know, recommendations to parliament and different ministers of government, there is also the added power to actually do something where there are breaches that have been identified or deficiencies that have been identified. So, in terms of, for example, getting a declaratory judgment from the court that a practice needs to be curtailed or a practice that is good needs to be upscaled, there is that power. Now just to speak about some of the issues, I'll follow on from and very quickly because in Jamaica as well we did an assessment of children who interact with the justice sector, not just those who are offenders though but also victims and witnesses. And what we found was that they thought that the systems that we have actually retraumatize them. So, when a child has been sexually validated for instants the way the system was structured it's very difficult for that child to give evidence in Court. I mean to speak able to very personal and humiliating things that has happened to them. And also, to see the accused person sitting right there staring at them for the duration of the trial. Also, in relation to child offenders they were of the view that they were not necessarily treated fairly by the system. Sometimes they were processed through the system because they had an adult to present. But that adult was not an attorney that could not give them legal protection before the Courts. And to our assessment from the office of the children's advocate revealed that we needed to have minimum standards for all justice sector stakeholders so, that there could be child friendly and child appropriate justice that really looked at how can we ensure that each child despite their category who interacts with the justice sector is getting at least a consistent minimum that is recommended. And that has resulted in the issuing what is called the way to child justice guidelines which has minimum standards for attorneys at law including prosecutors and defense counsel. And all our judges at various levels, law enforcement and other persons who work with children. And a spin of, of a that which we are doing very aggressively is to have capacity building sessions with all the stakeholders. So just 3 weeks ago we just had a refresher with all of the judges across our island in terms of child friendly appropriate practices to ensure that the system is not you know, contributing negatively to all comes up with these children. We looked at things for example that the deprivation of liberty is to be a measure of last resort. Because as Anne says when you were host children in institutions that are penal you are exposing them more to a life of crime. And it makes



rehabilitation, reintegration that much less. So, that's one of the practices that I think I would like to highlight. The other issue has to do with the prohibition of status offences being capable of landing children in prison. So, in Jamaica we have a practice whereby if a child has behaved oral issues, that the parent feels that they can't cope with under our childcare protection act that parent can take the child to the police station to say I can't cope. And there are various measures that when the child is faced before the Court could be pursued, one is that the child could be pleased with another relative who can cope better, or the family could get counseling supports to help them cope. But unfortunately, there is also the remedy of placing that child in a penal institution and so we have gotten our government to agree and they have indicated in writing that the legislation will be amended to remove the, punitive aspect of placing the child in a penal institution. So that's a victory as far as we see it. We're awaiting the amendment of the legislation. And the other issue that I want to mention and join with, Farah on has to do with the corporal punishment issue. So, in Jamaica, corporal punishment has been prohibited in certain settings. So, again, our legislation has been amended to prevent it in penal institutions when children have been found guilty. We also have our early childhood act, which prevents corporal punishment in any early childhood institution. That's an institution that caters to children who are below 8 years, and it is also prohibited in places of safety and children's homes. We, however, have not yet had a ban in schools for children above 8, nor have we had a ban in the in the home setting. But what we do have is an indication from our prime minister in a parliamentary statement that the government is moving towards banning corporal punishment in all settings, including the home. Of course, it's a very lively political debate because Jamaica, like my colleagues, we have a tradition as being a former British colony where the whole issue of reasonable chastisement is very alive, and we are predominantly a Christian nation, and the bible is often relied upon to say that you can't spare the rod and spoil the child. But we are now having civil society, members of parliament and other organizations who are pushing for the ban in homes, and it looks as if it's gaining some attraction. So, you know, that of course, is being linked to the evidence in terms of the negative outcomes that children suffer when they're exposed to corporal punishment, particularly for long times and severe forms of it. So, I think I'll stop there in terms of the priorities. Thank you.

Children's Ombudsperson Niumaath Shafeeg speaking:

Thank you very much for the opportunity. And, I think considering the acts, some of the practices in the Maldives we are far better off in many ways because corporal punishment



is not allowed even within the homes or in schools or any other place. As well as, the age of marriage is 18 years, so I think we have moved forward when you are really compare notes with other countries. That's something we found even recently for this regional event we had in Nepal, where SAARC region everybody said that they were talking more about marriage at young age as well as corporal punishment and also the fact that their child protection act does not separate or they don't have an office separate for children. So, I think they are all looking forward to bring the changes and look at the adaptation that's happen. So, I think when I really compare notes Maldives is far. Because we have both the legislation in place even juvenile justice system as well as child protection act which some other countries even within the region are still building up to for further work that needs to be done. And I think some of our practices have long were stop. Worrying parties though we talk about child marriage not being there, but we are seeing some forms of in some pockets where the religious aspects they believe that they can marry when they hit their puberty and some of them are not for official. There are non-officially accepted but through our investigation we have come across couple of children that has been send of by the parents to live a so-called husband or somebody. And some of them has also been penalized and arrested. So, I think having though we say it's not there we have it in certain pockets but the legislation is very strong. Action can really be taken. So, I would say like when we are really looking in to the acts have come in 2019 and we are really working towards bring the changes as well as come up with all the SOPs the regulations that would work for the country. So I would say that I think we are in a better and a very fortunate setting to work on behalf of children. Thank you.

Chairperson speaking:

Thank you so much for the information that you have shared and as our ombudsperson has said we are really fortunate to have these at least these rules, the laws in place. But we share similar problems as a society here also. There are lot of family issues as you know, Maldives has the highest divorce rate in the world. And because of that there are a lot of separated families, lot of single mothers living with children and as well as single fathers are there. These things have their separate issues and problems. The problem of housing, problem of drug abuse, gang violence similar to as has expressed learning problems, psychological problems. And so these, looking at these problems and all and the legislative agenda of the current government which is to bring an amendment to a child rights protection act and amendment to the Family Act to the Disability Act to Gender-based Violence (GBV) Act. Also, to the Education Act. So, looking at these



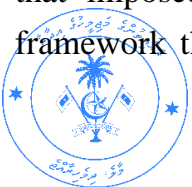
things it is very promising and also very we are very hopeful that all these issues that are in the society will be addressed and reflected upon when we get these amendments. And hopefully if there are any new bills which is being proposed. So far, we have certain institutions which deals with these child related problems like of a special unit in the police FCPD. And obviously we have our Ombudsperson in the HRCM and also Family Protection Authority. Also, we have a separate ministry which deals with it. Which is the Ministry of Social and Family Development. So, together we are trying to really deal with this problem. And we as lawmakers, we are looking into a holistic approach where we can really look in to how we can help to build a better framework to protect our children's rights. The government also has a special concept for juvenile delinquents and those for those children who maybe may become delinquents in the future, and they are having a concept of making a separate island to kind of institutionalize and then to rehabilitate the children. So, we will be looking closely into this together with the Ombudsperson and other relevant stakeholders and ensure that these the children who are being placed there will get their rights and to make that program a better one. So that we have a better generation of youth in our society. So, I open the floor to members whether you have to share anything or any question with our guests. Thank you.

Huraa constituency member Anara Naeem speaking:

I am Anara Naeem from Hura constituency. Thank you for your information. I want to ask about what are the laws in your countries that are there for children. I want to know more about laws.

Children's Advocate of Jamaica and National Rapporteur on Trafficking in Persons, Diahann Gordon Harrison speaking:

Right. So, I'll go first from the Jamaican perspective. So recently enough, in 2013, our constitution was amended, and we got a new charter of fundamental rights and freedoms. And for the first time in section 13 of the charter, it speaks specifically about the vulnerability of children and the responsibility to ensure that their best interests are always promoted and that they are safeguarded within the context of the highest law of the land. So that's a very general provision. And then we also have our Child Care and Protection Act, which is a direct derivative of Jamaica's state party status to the UN Convention of the Rights of the Child. We ratified it in 1991, and of course, as you know, that imposed certain obligations on us. And so that is the overarching legislative framework that deals with, recognizing that a rights-based approach is what is now in



order. It speaks about several rights of the child. It speaks about the fact whenever anyone is working with children or whenever the court has a decision to make, they have to make it in keeping with the best interest of the child and then it gives some context as to factors that you consider when you're determining what is best. We also have several, what I call splinter legislation because it's not as overarching as the Child Care Protection Act. Some of those include our sexual offenses act, which speaks about a range of sexual, sexually deviant behavior in relation to children and other populations. So that deals with, for example, incest, rape, sex with a person under 16 years, sexual grooming, sexual touching and the list goes on. We also have in our offenses against the personal act, indecent assault, again, which is slightly, you know, talking about exposure to children and so on. We have our child's pornography act, which speaks about, as the name suggests, portraying children in, actually compromising positions, and it includes even if the image is not of an actual child. So even if it is a cartoon image that purports to be a minor and that minor is being showed in a, you know, less than appropriate, depiction that's also covered by the Pornography Act. And then we also have other more administrative pieces of legislation. For example, our adoption act which deals with who can be adopted and the legal custody and guardianship act as well, which speaks about children in vulnerable circumstances who can be eligible to become the ward of a legal guardian. And those are the ones at the top of my head at the moment.

National Children's Commissioner, Australian Human Rights Commission, Anne Hollonds speaking:

Yes. Well, we would be here all afternoon if I tell you about all of our acts, these are at the state and territory level. We have child protection and youth justice acts and many of the similar things that Diane talked about. But I will just say this, that even though Australia signed or ratified the Convention on the Rights of the Child in 1990, so 34 years ago, we do not have the convention in domestic law. And this is the biggest problem because there is no accountability. Okay. So, for evidence-based action, we have many row commissions, inquiries, you know, decades of evidence of what should be done. So, we need a National Children's Act that brings the convention into law. Thank you.

Children's Commissioner (OCC), the Human Rights Commission of Malaysia (SUHAKAM), Dr Farah Nini Dusuki Speaking:



First of all, I think it needs to be understood that in Malaysia, because of duality of shariah and law and also the civil system, so primarily where private law is concerned, marriage, divorce, custody of children it will be governed under Shariah court under the respective states. So only in that aspect you know, it will affect children. But in terms of criminal offenses, Shariah courts do have limited jurisdiction for minor offenses like not fasting in Ramadan, you know, proximity between men and women out of wedlock for instance. So, on the other aspect of children, for example, you know, like committing crimes it is and all of the other general matters, everyone is governed the same under the federal law. So, we have the Comprehensive Child Act 2001, which embodied the previous Juvenile Courts Act, the Women and Girls Protection Act, and also the Child Protection Act. So, it's putting everything together under one umbrella law. We also have other corresponding laws pertaining to childcare centers and all that. And, also, sexual offenses against Children Act does have its own act in 2017, and Evidence of Child Witness Act 2007. But in terms of having a holistic law, there will be the Child Act. Although now we are considering of going back to the previous situation. You know why, because when you have a one comprehensive law packed under the Ministry of Women where children come into conflict with the law, they come under different agencies like Ministry of Home Affairs. So, you know, in terms of execution, they become very territorial. In terms of amending of the act also they become territorial. So, it makes the execution of rights, as Anne has put it very difficult. And like Australia, we don't have a particular law that embodies the principles of the CRC domestically. So, CRC is being used in court but only as persuasive authority. It is not binding until and unless particular provision is embedded within the law. So, for example, primary education is compulsory. So, it has been embodied in the Education Act. So, that can be enforced. But otherwise, like the best interest of the child and all that, it will be very much on the discretion of the courts.

Chairperson speaking:

Thank you so much. We also have, just I missed this point. We also have the authority to oversee and to make sure, ensure that already there are places where children are being institutionalized. Like the orphanages and also the home for people with special needs. There are special needs children there. So, we, as a committee, we have the authority to oversee whether their rights are being protected. I forgot to mention that point.



Children's Commissioner (OCC), the Human Rights Commission of Malaysia (SUHAKAM), Dr Farah Nini Dusuki Speaking:

If I mean to say, at the parliament level there is also a parliamentary-select committee on women, children and social development of which I am an ex-official. So, when parliament is in session, like now, there will be weekly meetings. So, the parliamentary-select committees will be delving into particular issues. And in fact, last month, last 2 months there have been periodic visits into institutions. And I think this is very important because when this happens and been discussed, it will be put in the Hansard. And there will be authority for hopefully for more reforms take place, because it is official.

Chairperson speaking:

So, Ann, as you are leaving we are also planning to, yeah, stop the meeting in your honor. So, since we don't, the members don't have any questions for the moment and I would like to ask whether you, do you have anything to say as last remarks maybe? Okay! Right. So, if we have further things to discuss we can always communicate and, yes, and you can always mail to us and we can, you know, keep the conversation going. So, thank you so much for being here, thank you. Yes.

Children's Advocate of Jamaica and National Rapporteur on Trafficking in Persons, Diahann Gordon Harrison speaking:

If I may; so, it's not a question. It's more a comment. And I really want to comment this committee for taking the time to meet with us. And as far as I see it, it's not as a courtesy to us as visitors, but I'm seeing it as a vote of confidence in your own children's Ombudsperson. And it's always very good to see a government that's very busy with lots of issues, taking the time to support such a critical institution. So, I want to comment you and to encourage you to continue doing that because she's doing amazing work, both locally and when certainly I've had the opportunity to see her overseas. And so, I want to comment you for having vested your trust in her to leave this very important charge. And I hope that the support will continue for her office and for her personally. Thank you.

Chairman Speaking:

Thank you so much.

Children's Commissioner (OCC), the Human Rights Commission of Malaysia (SUHAKAM), Dr Farah Nini Dusuki Speaking:

