

No. 36 of 2020



SEVENTH NATIONAL ASSEMBLY

**PARLIAMENTARY
DEBATES
(HANSARD)**

FIRST SESSION

THURSDAY 03 DECEMBER 2020

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(Formed by Hon. Pravind Kumar Jugnauth)

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Hon. Louis Steven Obeegadoo	Deputy Prime Minister, Minister of Housing and Land Use Planning, Minister of Tourism
Hon. Mrs Leela Devi Dookun-Luchoomun, GCSK	Vice-Prime Minister, Minister of Education, Tertiary Education, Science and Technology
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Hon. Alan Ganoo	Minister of Land Transport and Light Rail
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PRINCIPAL OFFICERS AND OFFICIALS

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Deputy Speaker	Hon. Mohammad Zahid Nazurally
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MAURITIUS

Seventh National Assembly

FIRST SESSION

Debate No. 36 of 2020

Sitting of Thursday 03 December 2020

The Assembly met in the Assembly House, Port Louis, at 3.00 p.m.

The National Anthem was played

(Mr Speaker in the Chair)

PAPERS LAID

The Prime Minister: Mr Speaker, Sir, the Papers have been laid on the Table.

A. Ministry of Finance, Economic Planning and Development

- (a) The Income Tax (Amendment of Schedule) (No. 3) Regulations 2020. (Government Notice No. 286 of 2020)
- (b) The Annual Report of the Bank of Mauritius for the year ended 30 June 2020.

B. Ministry of Foreign Affairs, Regional Integration and International Trade

The Annual Report of the Independent Police Complaints Commission for the period 09 April 2018 to 30 June 2019.

C. Ministry of Social Integration, Social Security and National Solidarity

- (a) The Social Aid (Amendment No. 7) Regulations 2020. (Government Notice No. 281 of 2020)
- (b) The Social Aid (Amendment No. 8) Regulations 2020. (Government Notice No. 282 of 2020)
- (c) The Social Aid (Amendment No. 9) Regulations 2020. (Government Notice No. 283 of 2020)
- (d) The Social Aid (Amendment No. 10) Regulations 2020. (Government Notice No. 284 of 2020)
- (e) The Social Aid (Amendment of Schedule) (No. 7) Regulations 2020. (Government Notice No. 285 of 2020)

D. Ministry of Environment, Solid Waste Management and Climate Change

The Annual Report 2017-2018 of the Beach Authority

E. Ministry of Health and Wellness

The Quarantine (COVID-19) (Amendment No. 5) Regulations 2020. (Government Notice No. 280 of 2020)

F. Ministry of Arts and Cultural Heritage

- (a) The Annual Report of the Aapravasi Ghat Trust Fund for the period July 2018 to June 2019.
- (b) The Annual Report of the National Library for the period 01 July 2018 to 30 June 2019.

MOTION

SUSPENSION OF S. O. 10(2)

The Prime Minister: Mr Speaker, Sir, I beg to move that all the business on today's Order Paper be exempted from the provisions of paragraph (2) of Standing Order 10.

Dr. Padayachy seconded.

Question put and agreed to.

PUBLIC BILLS

Second Reading

THE CHILDREN'S BILL

(No. XVII of 2020)

&

THE CHILDREN'S COURT BILL

(NO. XVIII OF 2020)

&

THE CHILD SEX OFFENDER REGISTER BILL

(NO. XIX OF 2020)

Order read for resuming adjourned debate on the Children's Bill (No. XVII of 2020).

Question again proposed.

Mr Speaker: Hon. Minister Jagutpal!

(3.01 p.m.)

The Minister of Health and Wellness (Dr. K. Jagutpal): Mr Speaker, Sir, as I begin my intervention before this House today on these three defining Bills; namely, the Children's Bill, the Children's Court Bill and the Child Sex Offender Register Bill, I cannot but prevent myself from having a thought for all the children who have had their childhood snatched from them.

Through the years, we have sadly heard of several cases, where innocent and defenceless children fall prey to monsters devoid of compassion, devoid of respect.

As known to everyone “*Dans Zenfant Ena Bondié*”, but some brutes fail to understand this.

Our Republic can no longer condone such atrocities and this was clearly spelt-out in the Government Programme 2020-2024.

The three Bills put to debate in this august Assembly are, in fact, additional shields that this Government is devising so as to protect our children, to protect our future.

The views which we are sharing regarding these proposed Bills should be devoid of any political bearing.

I will, on this note, congratulate the Minister of Gender Equality and Family Welfare, Mrs Kalpana Koonjoo-Shah for the fastidious efforts and commitment put in the elaboration of these Bills.

Mr Speaker Sir, I will start by sharing my views on the Children’s Bill. A Bill which reconciles Children’s Rights and Children’s Welfare with Children’s Health.

Let me start with the definition of the term “harm” which may be caused to a child. It regroups various types of abuse, including physical abuse, sexual abuse, verbal abuse and psychological abuse amongst others. Harming a child should not only be curtailed to physical cruelty. Some types of cruelty can be complex to identify, but they can be as vicious and brutal as any form of physical mistreatment.

Psychological and emotional abuse can leave scars which never wash away. As a Medical Practitioner having spent many years in the Public Health Sector, I have myself personally examined and managed various such cases.

Psychological and emotional abuse, however, remain under-recognised and they are not always reported. The moral abuse endured by these children takes time to manifest. These types of cruelty are the most challenging to identify and address.

If left unrecognised, such mistreatments are bound to lead to various damaging outcomes such as emotional impairedness, social and cognitive development impairedness.

The consequences of such adverse effects are even more alarming and long-lasting. Victims of such abuse often face behavioural problems at later stages of their development, during their adolescence and even in adulthood.

We have, indeed, noted cases where psychologically fragile children have poor school performances, poor academic performance. They develop serious long-term health outcomes like self-low esteem, anxiety, substance abuse, aggression and post-traumatic stress disorder.

The clear definition of such forms of abuse in the Children's Bill creates a legal framework that will facilitate detection of such cases. This will, in turn, allow Health professionals to provide the victims with an adequate medical intervention and follow-up.

I also note with utmost satisfaction that depriving a child of medical treatment is, in fact, considered equivalent to neglect.

Contrary to what was stated by hon. Ms Anquetil, our hospitals remain places of safety for our children. There is a clear defined protocol between the Child Development Unit (the CDU) and my Ministry for handling of children victims of abuse.

Whenever we are confronted with such cases, the Child Development Unit informs the medical team assessing the victim. The child then undergoes a physical and psychological evaluation, and the results define the way forward.

The House will appreciate that, in the Health Sector Strategic Plan 2020-2024, due consideration has been given to ensure that each and every child of our country has equal access to appropriate health care and treatment.

We will live to our mandate to offer adequate protection to the mother, the child and the family. One of our objectives indeed consists in strengthening our collaboration with the Ministry of Gender Equality and Family Welfare.

Together we will embark on a mission to sensitise communities on the value of good parenting and on the prevention of child abuse.

I recently chaired a working session on the forthcoming elaboration and implementation of an Action Plan on Maternal and Child Health. Through this roadmap, we are aiming to tackle a number of issues of medical and social nature.

My Ministry, along with its relevant and competent partners, is envisaging to develop a pre-marital counselling programme for couples. This will allow us to offer suitable guidelines as to the health management of new-borns but also give precious advice on their upbringing and all associated implications.

Such measures show that, as a Government, we are not only committed to vote laws but it is also our duty to empower families so that they do what is right for their children.

My Ministry's objective is also to improve access to health education and information services, including sexual and psychological health.

Follow-ups of children on their healthy development from pre-primary to primary and secondary schools are already being strengthened. This includes enhanced screening in order to detect mental disorders, suicidal tendencies, malnutrition, obesity, addiction and domestic violence.

With the collaboration of the Ministry of Education, we will also see to it that each school in our country becomes a health promoting school.

Our children should have first-hand knowledge on healthy lifestyles, hygiene, nutrition, physical activity as well as the required know-how on sexual, emotional and reproductive health.

It is also our duty to impart knowledge and skills to teachers in order for them to also be able to detect child abuse, be it physical or moral. Works with the Ministry of Education are ongoing and the concept of healthy living will be taught to our youth as a full-fledged subject.

I also wish to highlight the positive changes brought forward with the abolition of the concept of "child beyond control".

This Bill is rightly doing away with this absolutely tenuous tag. It was so easily affixed on children who depend on us for their correct and proper upbringing.

This vague definition was indeed a barrier, preventing medical experts from doing a precise psychological assessment of such children.

We should understand that no child is beyond control and our aim should not be to control. We should understand that each child has a specific personality trait which has a genetic component. These traits are also influenced by the environment in which he or she evolves.

When these features manifest into anti-social behaviour, it is our duty to medically assess them and properly channel them. Repealing this tag might appear as an insignificant change but it makes all the difference.

Instead of stigmatising the child, we should indeed provide children in such cases with the necessary tools and attention to overcome the situation. Promotion of positive behaviour can be done in numerous simple ways.

This Bill also creates the required environment for the recognition of a child's efforts and opinions. It is defined in such a way as to promote a child's self-esteem.

Far from the rigidity which we usually associate to legal documents, it creates room for empathy and compassion.

We have a power tool in psychology known as the "Draw a Picture Test". It is usually applied to very young children who are not yet able to correctly and precisely voice out their feelings.

Through pictures, they however manage to tell us a lot on their personal situation and the distress they voice out can easily be detected.

Similarly, this Bill provides for a humane approach. An approach which bears in mind that these children have been through atrocities and that they need to feel safe and secure again.

Mr Speaker, Sir, the Children's Bill comprises a series of revolutionary measures that have been subject to debates outside this House as well.

These measures are being positively recognised by the majority of those who fight for the respect of children's rights.

They are also compliant with what is recommended by the United Nations Conventions on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.

The Children's Bill henceforth defines a child as a person under the age of 18, as recommended by the United Nations.

This Bill also ascertains that as from now, children's rights, on a number of specified aspects are guaranteed. Parental responsibilities and rights have been clearly defined. The primary focus has been placed on how to serve the best interests of the child.

Mr Speaker, Sir, on this note, I wish to inform the House that I have had discussions with my colleague, hon. Minister Mrs Koonjoo-Shah, regarding the issue of parental alienation.

The recent demise of a 2-year-old child, victim of atrocious brutality, while being under the supervision of his biological mother has shocked the whole country.

The Mauritian law is such, that upon the separation or divorce of a couple, the custody of children below the age of 5 is given to the mother. This provision of the law has to be amended. We should give the power to Judges to also consider giving the fathers the joint custody of children below the age of 5. Such a measure will ensure that a child will have the support of both his parents during these defining years of his upbringing. It will indeed consist of a major progress in our efforts to do away with parental alienation.

I am very glad to note that my colleague, hon. Minister Mrs Koonjoo-Shah, shares the same views. In fact, she was already going ahead with the necessary adjustments.

I seize this opportunity to heartily thank her for this yet another measure to protect our children.

Mr Speaker, Sir, it will, as from now, be an offence to force or cause a child to be married, whether in the eyes of law or religiously. The excuses behind child marriage are numerous but none of them can be justified. It is a fact that child marriage is also a gender issue, be it in Mauritius or around the world.

Early marriage remains an outdated practice and it can only deprive a child of basic rights like making vital decisions about their sexual health and well-being. It is also a hindrance to their education, their life and career prospects are limited as a result.

Forcing a child into marriage is exposing the child to risks of violence, abuse, ill health and also early death. These measures defined for children in need of care and protection will also confer more powers to investigating bodies and more protection to whistle blowers. It was indeed essential to come up with such a framework allowing for cases of mistreatment to be duly investigated and dealt with. It is a fact that evident cases of child abuse have gone unreported and the bullies left unpunished.

The new reporting procedures, the investigation and assessment guidelines and protection of a reporter's identity will surely contribute in putting to light cases of mistreatment, which up till now, were unnoticed.

Finally, on the Children's Bill, Mr Speaker, Sir, it provides for the creation of a Child Services Coordinating Panel. This panel will be responsible for the implementation of all the measures and recommendations outlined in the Bill. It rightly regroups various stakeholders, including my Ministry. We all acknowledge that access to safe health and health care is one of the basic rights that should be provided at all costs to our children.

Mr Speaker, Sir, the Children's Court Bill which provides for the establishment of a separate and dedicated body to deal with cases involving children is yet another ground-breaking development brought before this House today. Going to court, be it as a victim or as a witness, is usually a traumatic experience.

This new Bill will see to it that children are treated in a way suitable for their understanding and in an appropriate way. The Bill also provides for an environment where the child feels safe and where his dignity and self-esteem is upheld. The Bill recognises that children victims are at their most vulnerable when they have to testify against the perpetrators. We should bear in mind that in such situations, the child is the sole witness of what happened and the child is as well the prime victim.

It is therefore essential that in the process of administering justice, all the required information is obtained in such a way so as not to cause any further prejudice to the child.

The establishment of this new Children's Court will also give parents more confidence in the administration of justice. Very often, cases of abuse against children are silenced in an unfounded attempt to protect the child from any further torture. With the new setting and child-friendly environment of the Children's Court, parents and reporters alike can rest assured that everything is being done to safeguard the children's best interest. More importantly, perpetrators of abuse against children will no longer be left unpunished.

Mr Speaker, Sir, the creation of a Child Sex Offender Register will serve similar purposes. It is known that very often, brutes who commit sexual crimes against children are no strangers to

their victims. This Register will serve as an efficient tool in the hands of competent authorities and prevent offenders from repeating their acts.

Last month, the ICTA published alarming data on the number of persons who tried to gain access to websites with paedophile contents from local IPs. Agencies which are mandated to ensure child safety should be given such information in order to prevent terrible crimes. I am, once more, totally in favour of such a measure.

It has been put in force in various other countries and has given substantial results. Mr Speaker, Sir, the three Bills put to debate comprise a series of well thought-upon measures which will enhance the protection that we offer to our children as a nation.

My Ministry will continue to assist in making sure that the very basic rights of our younger ones are maintained.

‘Quand on n’a pas été un enfant, on ne devient pas un homme.’

French writer Alexandre Dumas said so.

Let us therefore not deprive our children of the marvellous gift of childhood and their immutable rights.

I thank you for your attention.

Mr Speaker: Hon. Mrs Tour!

(3.22 p.m.)

Mrs J. Tour (Third Member for Port Louis North & Montagne Longue): M. le président, avant de débiter mon intervention, je tiens à exprimer mes plus chaleureuses félicitations à ma collègue, la ministre de l’Égalité des Genres et du bien-être de la famille pour ces projets de loi relatifs à la protection de l’enfant et aussi à sa prédécesseur dans ce ministère qui a débuté ce travail législatif de longue haleine, l’honorable ministre Fazila Jeewa-Daareewoo. Cette initiative volontarisme de ma collègue ministre vient démontrer, si besoin était, que le gouvernement ne veut pas simplement se contenter de mots, mais qu’il veut surtout transcrire les mots en actions bien réelles et concrètes pour le bien-être et la protection des enfants. De plus c’est une démarche qui s’inscrit dans le droit fil des recommandations des

Nations Unies. Une démarche qui est fidèle à l'idée que notre République a le devoir constant de veiller à la protection de ces enfants et des plus vulnérables.

Ce projet de loi, M. le président, n'est donc pas un simple document législatif mais un véritable engagement profond et soutenu envers les enfants de ce pays. Ce sera une boussole pour tout le pays pour nous aiguiller vers une plus grande considération des droits de nos petits, et qui servira surtout à changer notre réflexion sur la façon avec laquelle nous devons traiter tous les enfants. Nous tous, ici, quel que soit notre bord politique, nous pouvons nous féliciter pour l'approbation d'une telle loi quand elle dépasse tous les clivages politiques et elle nous embarque tous dans le destin commun de droits humains.

M. le président, à travers l'histoire, les enfants ont toujours été extrêmement vulnérables aux abus et aux violences. Ils ne peuvent pas trouver les mots pour nous faire part des sévices subis ; ils ont peur des plus grands ; ils ont très souvent du mal à distinguer entre le mal et le bien. Ils sont même incapables de nous exprimer leurs douleurs ou leurs souffrances et surtout ils ont du mal à se défendre. Maintenant, si vous ajoutez le côté pervers de certains adultes, leur cruauté et leur sens malsain de maltraitance, vous avez tous les prémices de la violence contre les enfants.

M. le président, cette violence et ces abus ont pris une autre dimension avec la croissance des moyens technologiques et digitaux. C'est pourquoi nous devons toujours réactualiser notre dispositif légal pour contrer de nouvelles menaces qui guettent nos enfants. C'est notre devoir à nous parlementaires, en tant que législateurs, de toujours être à l'affût des possibilités d'abus et de maltraitance de nos enfants.

Je suis heureuse aujourd'hui de pouvoir apporter mon humble contribution de ce combat et je me sens très émue en tant qu'élue mais aussi en tant que mère de famille.

M. le président, c'est dans cette perspective que nous abordons l'examen et éventuellement l'adoption de ce texte législatif. La logique que sous-entend ces trois nouveaux textes de loi n'est pas simplement d'amender ou d'épousseter la loi existante mais nous proposons le remplacement de textes obsolètes, de textes qui avaient de plus en plus de mal à cadrer avec les besoins actuels de l'enfant mauricien dans une société mauricienne qui a connu des mutations majeures. Ces nouveaux textes seront plus adaptés à notre société mauricienne moderne, c'est-à-dire, une société qui connaît de nouveaux problèmes et d'autres maux auxquels

sont exposés nos enfants. Je prends pour exemple, l'article 27 du nouveau *Children's Bill* qui évoque the '*Right to privacy*', dont les provisions vont dorénavant protéger le droit à l'image de l'enfant dans une société digitale. Il est important de noter que ces provisions ne figuraient pas dans nos lois auparavant.

M. le président, c'est bien important de le répéter. Nous avons devant nous aujourd'hui bien plus qu'un simple texte de projet de loi. C'est un corpus législatif concret, complet et moderne qui viendra soutenir notre mission nationale qui est de protéger nos tout-petits. Ce corpus législatif sera un outil précieux pour toutes nos institutions, pour nos forces de l'ordre, nos juges et avocats, nos décideurs et notre population mauricienne. Je veux citer là, le *Children's Bill* qui vient remplacer le *Child Protection Act*, le *Children's Court Bill*, le *Child Sex Offender Register Bill*. Ces textes de loi proposent une nouvelle approche légale concernant les enfants. C'est tout un nouvel état d'esprit qui est proposé. Cela est très visible en particulier dans la définition des offenses contre les enfants qui sont énumérées dans le *Children's Bill* aux sections 13 à 17.

En effet, M. le président, jusqu'à présent la définition des délits contre les enfants qui figuraient dans les textes existants, notamment le *Child Protection Act* et le Code Pénal était envisagée sous l'angle de la morale publique et non pas en termes des droits humains. Par exemple, la section 251 du Code Pénal, '*Debauching youth*', qui interdit de débaucher des mineurs ne parle pas des dommages que cela pourrait causer sur l'enfant en question, mais uniquement sous l'angle de la moralité publique.

Permettez-moi M. le président, de citer un autre exemple qui montre comment les nouveaux textes de loi constituent un véritable progrès législatif. À la section 13 de l'ancien *Child Protection Act*, la notion de '*ill-treatment of child*' ne voyait que dans la maltraitance sur l'enfant une simple entorse de la loi. Je cite cette provision –

“13. Ill-treatment

(1) Any person who ill-treats a child or otherwise exposes a child to harm shall commit an offence.”

Hors, dans le nouveau texte de loi, la notion de souffrance de l'enfant entre en compte, ce qui permet une véritable conscientisation. Dans le *Children's Bill* qui est devant nous, il est dit, je cite –

« 13. *Ill-treatment of child*

(1) No person shall ill-treat a child, or allow a child to be ill-treated, so that the child suffers, or is likely to suffer, harm. »

De plus, M. le président, le projet de loi prend en compte non seulement les souffrances physiques mais aussi l'humiliation qui, elle aussi, sera maintenant considérée comme un délit. Ainsi le *Children's Bill* prend en compte de nouvelles offenses spécifiques contre les enfants, ce qui n'était pas prévu dans des textes antérieurs, telles que la section 11 sur la discrimination, la section 24 qui régit l'accès aux jeux de hasards, la section 26 qui prévient contre le harcèlement ou encore la section 27 qui fait provision pour le droit à la vie privée.

M. le président, la logique des textes de loi était aussi de s'aligner avec les conventions et législations internationales, notamment la Convention des États Unis sur les droits de l'enfant et la Charte Africaine des Droits et du Bien-être de l'Enfant. Ces trois nouveaux textes de loi que nous allons voter dans ce Parlement viendra placer l'Île Maurice aux rangs des Nations avancées, en termes de la protection des droits des enfants. C'est grâce à de telles initiatives et à la mise à niveau de nos législations avec les Conventions internationales que nous démontrons notre volonté absolue de mieux protéger les enfants. Mais il ne s'agit nullement non plus de calquer simplement sur Maurice des textes ou des Conventions étrangères. Ce sont des textes de loi qui sont vraiment établis en fonction des besoins mauriciens, c'est aussi dans le droit fil de la démarche de ce gouvernement pour instaurer une véritable politique publique en faveur des enfants. Cette politique s'inscrit dans une plus large considération pour le bien-être de la société et en faveur des plus démunis et des plus faibles. C'est cela notre affirmation politique, défendre ceux qui ne le sont pas, protéger les plus faibles et aider les plus défavorisés.

M. le président, cela a requis un courage politique remarquable de la part du gouvernement d'introduire une telle pièce de législation sur un sujet aussi sensible que controversé. Mais un gouvernement responsable et humain ne doit pas s'effrayer de telles considérations ou de perceptions. Il doit agir dans l'intérêt commun en faisant fi des susceptibilités et c'est le devoir aussi du Parlement de légiférer avec fermeté et conscience.

Si le manque de courage politique a été le cas auparavant, j'en suis bien triste. Ici, je voudrais rendre un vibrant hommage, M. le président, à l'*Ombudsperson for Children* et ses collaborateurs pour leur travail de terrain et leur approche méthodologique qui a permis d'élaborer ces nouvelles dispositions légales. Ce travail en amont qui a été effectué d'une façon posée et réfléchie, évitant toute précipitation, les promoteurs de cette loi n'avaient pas envie de bâcler le travail dans la facilité mais ils ont plutôt choisi le chemin de la responsabilité. M. le président, je suis d'admiration devant le produit fini qui a été présenté à cette Assemblée. L'application avec laquelle ce projet de loi était conçu, préparé et finalisé, est un exemple de travail bien fait. C'est en réalité, M. le président, une approche législative, à la fois holistique et spécifique. Les dispositions de cette loi permettront une application très pratique sur le terrain et ce ne sera pas qu'un simple document qui dormirait dans un tiroir. La raison est simple, la vraie raison problématique de la maltraitance des enfants se déroule sur le terrain et c'est la raison pour laquelle ces nouvelles lois vont immédiatement donner les outils nécessaires pour sévir contre les coupables. C'est cela le concept de la relation intime et productive entre le législatif, l'institutionnel et le peuple. C'est un concept noble et admirable. C'est encore plus louable, M. le président, quand on le fait pour l'amélioration du bien-être de nos enfants.

L'autre philosophie qui guide ces lois c'est son intention de donner la parole aux enfants, de sonder leurs tragédies et d'y apporter des solutions. On sort, donc, d'une logique purement punitive. C'est cette ligne de pensée progressiste qui a inspiré ces projets de loi. Ces textes sont structurés, adressent les vraies causes de ce problème social de notre pays, jettent une lumière sur les conséquences de ce fléau et donnent ainsi une feuille de route aux forces de l'ordre aussi qu'aux institutions sociales de notre pays. C'est cela l'essence même d'une bonne législation, M. le président. Dans cette législation, on considère les enfants dans différentes situations aux cas de figure. Prenons le *Children's Bill*. Le *Children's Bill* prend en compte l'enfant victime, l'enfant en tant qu'*offender*, l'enfant perturbé *with behavioural problems*, l'enfant témoin.

La loi envisage aussi les droits en même temps que les devoirs et les responsabilités - les droits, les devoirs et responsabilités pas seulement des enfants, mais aussi des parents et des institutions, par exemple, la police ou la Cour. Il prend en compte la spécificité de la condition de l'enfant, notamment, à travers la notion de *juvenile justice*. Il envisage aussi *care, protection and assistance to children* (soin, protection et assistance) et intérêt de l'enfant pour qu'on arrive à mettre les parents en face de leurs responsabilités, la responsabilité des institutions aussi. Avec la

création d'une Cour adaptée pour les enfants ainsi c'est clair on sait comment elle fonctionne et cela vient faciliter tout le processus juridique.

Au niveau du rôle des institutions, ce n'est pas qu'une affaire de la police et de la justice mais aussi celle des institutions qui permettent de veiller au développement de l'enfant sous tous ses aspects, physique psychologique, intellectuelle, émotionnelle et sociale.

M. le président, en ce qui concerne le *Children's Court Bill*, c'est un texte qui permet de créer l'atmosphère confortable et les conditions appropriées pour les enfants et leur permettre de s'exprimer en mettant en place à la fois un dispositif des institutions et des procédures, des provisions légales qui favorisent et optimisent le processus légal autour de l'enfant. Ce sont les conditions justes qui sont réunies pour favoriser et optimiser, et protéger la déposition de l'enfant en évitant les pressions, les obstacles et même la frayeur ; déjà que ces enfants sont vulnérables et fragilisés.

Ainsi cela permet d'assurer l'intégrité du processus judiciaire autour de l'enfant. C'est comme ça qu'on peut obtenir des processus judiciaires justes et surtout efficaces et facilitent toute la procédure du jugement, notamment, pour obtenir des dépositions venant de l'enfant qui soient précises qui ne soient pas d'un parti pris par exemple et cela permet d'éviter les pressions sur les enfants. C'est comme ça qu'on peut appliquer la loi de façon juste.

M. le président, je viens maintenant brièvement sur le *Child Sex Offender Register Bill*. Voilà un texte qui n'envisage pas que la punition mais qui est préventif et qui vise à prévenir les offenses sexuelles envers les enfants, notamment, éviter aussi les récidives.

M. le président, si on veut bâtir une société saine, on doit commencer par s'assurer que les enfants aient le droit à la parole, que leurs droits soient respectés, qu'ils puissent prendre les décisions qu'il faut et grandir dans un environnement propice. Nos enfants, Mauriciens, sont les bâtisseurs de demain. Si leurs droits sont respectés, s'ils grandissent dans un environnement institutionnel et social favorable, ils pourront devenir des adultes responsables et prendre leur avenir en main, et prendre les bonnes décisions pour eux-mêmes et pour le pays.

Plus qu'une législation, des procédures juridiques justes et équitables et bien cadrés peuvent permettre de redonner à l'enfant confiance dans les institutions, dans les gens qui sont là pour les encadrer et dans l'avenir même.

M. le président, cet encadrement et ces provisions permettent d'envisager possiblement de nouvelles avenues pour d'autres textes de loi dans d'autres domaines sociaux. Ce sont des textes de loi qui peuvent même apporter une méthodologie juridique pour d'autres textes à venir dans le même esprit selon lequel le texte de loi ne vient pas seulement punir mais aussi protéger, encadrer et accompagner. C'est une démarche juridique qui vient redonner espoir.

Pour les responsables politiques, cela représente au-delà de la nécessité d'édicter de nouvelles lois ou de nouveaux règlements, un effort considérable d'informations, de sensibilisation, d'éducation et de persuasion. C'est une immense fierté pour nous tous dans cette Assemblée de faire adopter ces trois textes de loi.

M. le président, je vous remercie pour votre attention.

(3.39 p.m.)

Mr E. Juman (Fourth Member for Port Louis Maritime & Port Louis East): Merci, M. le président.

D'abord je me réjouis que le *Children's Bill*, bien qu'il eut été promis et plébiscité depuis le dernier mandat, soit enfin débattu au Parlement. Au moins il a vu le jour, contrairement à certaines promesses faites par ce gouvernement et qui n'ont jamais été concrétisées. Mieux vaut tard que jamais!

Je ne souhaite pas politiser ce projet de loi, M. le président, car c'est un sujet sensible qui concerne nos enfants à tous et qui nécessite un regard apolitique. Ce projet de loi comporte, bien entendu, des points positifs mais aussi quelques lacunes. Mais encore, M. le président, en même temps il ne faut pas croire qu'il va résoudre absolument tous les problèmes liés aux enfants. On avait déjà des lois censées protéger les enfants auparavant mais c'est leur mise en application, couplées de plusieurs autres manquements, qui posent problème. Donc, on aura beau avoir un *Children's Bill* mais si on ne revoit pas tout notre système, à commencer par le fonctionnement de la CDU, rien ne changera.

Avant que je ne rentre dans le vif du sujet, permettez-moi de citer quelques exemples concrets pour démontrer comment notre système a failli à assurer la protection de certains enfants qui, malheureusement, en ont fait les frais. Si on ne remédie pas cette situation on en

paiera encore le prix à l'avenir car il nous faut apprendre des erreurs du passé pour qu'elles ne se répètent pas mais encore faut-il que la volonté y soit, M. le président.

Prenons d'abord le cas de la petite Farida, 9 ans, tuée par sa propre mère et le compagnon de celle-ci en avril, en pleine confinement. Cette jeune fille était souvent victime de violences physiques et avait aussi été victime d'abus sexuels. Les autorités étaient au courant de son cas. D'ailleurs elle était, selon le dire de l'honorable ministre de l'Égalité et du Genre, suivie par le psychologue de la *CDU*. Ma question, M. le président, c'est que : si suivi il y avait, comment a-t-elle été retrouvée morte? Je n'accuse personne mais je me pose la question. Est-ce que l'État mauricien n'a pas une part de responsabilité si elle a perdu la vie? À mon avis, M. le président, oui, parce qu'on a failli à protéger cet enfant.

Attardons-nous maintenant sur le cas du petit Ayaan, battu à mort par le compagnon de sa mère. Le ministre de la Santé a lui-même révélé à l'Assemblée nationale, suite à une question posée par ma collègue, l'honorable Anquetil et moi-même, que le bébé avait reçu des traitements à l'hôpital de Rose Belle le 23 septembre dernier. On lui avait diagnostiqué un traumatisme à l'épaule et on lui avait demandé de retourner le lendemain. Un enfant de deux ans arrive à l'hôpital avec un traumatisme à l'épaule, on lui demande de venir le lendemain pour des examens approfondis. Mais, on ne pose pas de question comment cet incident a eu lieu? Pourquoi les parents ne sont pas revenus le lendemain? J'ai entendu l'honorable ministre, le Dr. Jagutpal parlait tout à l'heure, comme si demain matin, après avoir passé cette loi, tout va changer. Mais les lois étaient là. Notre système ne fonctionne pas, M. le président. J'ai peine à croire que les parents responsables auraient agi ainsi, de ne pas venir le lendemain. Encore une fois, je me pose la question, cet enfant battu à mort un mois plus tard, c'est le cadavre du petit Ayaan qu'on reçoit à l'hôpital un mois plus tard. Comme je vous ai dit, n'a-t-il quelque part pas été victime d'un système inefficace qui a fermé les yeux sur sa souffrance?

Je prends un troisième cas, celui d'un enfant qui a été récemment kidnappé, séquestré et abusé par un détraqué sexuel. J'avais interpellé le Premier ministre dessus mais le *Speaker*, vous-même, M. le président, m'avait coupé la parole.

Mr Speaker: Do not comment on the Speaker!

Mr Juman: Ses parents ont dû poireauter durant plusieurs heures parce qu'il n'y avait pas de véhicule pour le transporter à l'hôpital, jusqu'au point où ce sont ses proches, eux-mêmes,

qui l'ont finalement conduit à l'hôpital accompagné d'un policier. Et on fait appel à la *CDU* ; la *CDU* répond des heures après et on demande aux parents de Pamplémousses s'ils peuvent aller prendre l'officier à Flacq parce qu'elle était la seule officier de garde disponible.

Children's Bill, oui, mais qu'est-ce qui changera si l'on persiste dans cette même voie que la *CDU*, ne revoit pas son fonctionnement, son mode opératoire, ou si elle ne recrute pas des personnels qui pourraient l'aider dans sa mission ? Permettez-moi de citer un dernier cas, celui de deux enfants dont la mère avait été sauvagement tuée par leur père en septembre 2019. Ce dernier se retrouve derrière les barreaux, alors que les deux enfants du couple sont actuellement hébergés chez les proches. Savez-vous, M. le président, que ces enfants mineurs, dont le plus jeune est maintenant âgé de 12 ans, pendant toute l'année 2020, n'ont reçu aucun suivi psychologique, aucune visite des officiers chez les parents qui les hébergent. Personne n'a pris la peine d'aller personnellement à leur rencontre pour voir comment ils se portent. Ce n'est pas à travers le téléphone qu'on peut juger l'état d'un enfant, M. le président. Cet enfant, il faut le rappeler, a été contraint d'enjamber la fenêtre pour aller chercher du secours auprès de la police pour pouvoir sauver la vie de sa maman. C'est un enfant qui a témoigné de l'inertie de la police, qui ne s'est pas rendue immédiatement sur place pour sauver sa mère des griffes meurtrières de son père. C'est un enfant qui a vécu une expérience la plus traumatisante, mais au lieu de l'encadrer, au lieu de le soutenir, les autorités ont au contraire cherché à le déstabiliser. Je viens de parler aux parents qui l'hébergent ce matin. Ils ont eu un appel du ministère de la Sécurité sociale pour leur dire que l'allocation de R 1,700, je ne sais combien, va s'arrêter à partir du mois prochain. Il faut confirmer si le papa est toujours derrière les barreaux. Mais le ministère de la Sécurité sociale ne sait pas que l'enfant est hébergé par des parents sous la supervision de la *CDU* et même si son père sort de la prison, il n'aura pas la garde du petit. Voilà comment le système fonctionne.

Maintenant, M. le président, voulez-vous me faire croire que le *Children's Bill* va régler tous ces problèmes ? Les lois étaient là. Permettez-moi d'en douter, M. le président, cette loi fonctionnera seulement si on a la volonté de changer tout le système. Le *Child Services Coordinating Panel* préconisé dans ce projet de loi ne doit pas simplement se contenter d'être un comité cosmétique, mais devra aussi se charger de revoir tout le fonctionnement de la *CDU*. Il faut absolument qu'il y ait plus d'officiers, il faut recruter beaucoup plus d'officiers de la *CDU*, il faut la formation des officiers. Là, valeur du jour, on n'a que six bureaux pour couvrir toute

l'île et douze officiers de garde pour toute l'île. Mais comment voulez-vous, avec douze officiers, avec six bureaux - je viens de vous donner un exemple, vous avez un problème à Pamplémousses, il faut aller à Flacq pour trouver un officier. Il faut plus d'officiers. Il faut ouvrir encore davantage des bureaux dans tous les districts. Il faut mettre sur pied des unités spéciales dans les postes de police pour accueillir, pour traiter des enfants qui sont maltraités, qui sont abusés, même dans les hôpitaux publics, pour la prise en charge immédiate des victimes de violences et d'abus. Mais pour cela, il faut des recrutements massifs comme je vous ai dit et des personnels qualifiés.

M. le président, de ce côté de la Chambre, nous avons été interpellés quand nous avons appris, suite à une question de l'honorable Reza Uteem, que des enfants avaient été placés dans des hôpitaux au lieu des *shelters* durant le confinement. Mais là, valeur du jour, à l'heure que je vous parle, à l'hôpital Dr. A. G. Jeetoo, à la salle 3-6, il y a plus d'une douzaine d'enfants qui sont hébergés là-bas, qui sont en bonne santé, et je suis sûr c'est le même cas dans d'autres hôpitaux. Il me semble que la majorité n'y voit aucun inconvénient puisse qu'elle veut légaliser le fait que les hôpitaux soient *a place of safety*. Comment un enfant en bonne santé peut-il rester à l'hôpital et on dit que les hôpitaux sont *a place of safety*. Je ne comprends pas.

Comment est-ce qu'un enfant peut être *safe* dans un endroit fréquenté par des personnes malades, partageant la même salle avec des personnes malades, alors qu'il est constamment exposé aux virus et d'autres maladies ? Comment un enfant peut-il être *safe* quand il est maintenu dans un endroit où règne une atmosphère lourde et stressante ? Rien que de rendre visite à un malade pour une trentaine de minutes ou une heure de temps dans un hôpital nous rend déprimé, imaginez maintenant un enfant en bonne santé passant 24 heures à l'hôpital, ou des jours, des semaines, voire des mois, sans aller à l'école, cela me dépasse ! Comment le gouvernement peut-il être aussi insensible aux sorts de ces enfants, et M. le président, on veut nous faire croire que demain tout va changer avec les nouvelles lois. Certes, l'hôpital est une option, une option facile mais ce n'est pas en cherchant la facilité qu'on facilitera la vie de ces enfants que nous sommes censés de protéger.

Une des lacunes majeures de ce projet de loi, M. le président, disons-le haut et fort, et qui ne contient aucune mesure pour s'adresser à ce problème, c'est la grossesse précoce. Pourtant, c'est un sujet préoccupant, bien plus même que l'âge du mariage, parce que toute cette ébauche

résume à l'âge du mariage, mariage religieux, etc. Non, c'est beaucoup plus important ce projet de loi et on devra s'attendre à ce qu'il y ait encore plus, puisque le *Children's Bill* n'adresse pas le sujet 'le concubinage des mineurs', alors que l'âge du mariage a été fixé à 18 ans. Comment on peut conjuguer cela ? On ne peut pas se marier avant 18 ans, c'est-à-dire, 16 à 18 ans, ou moins, mais par contre on peut rester ensemble, on peut avoir des enfants ! Et qu'est-ce qu'on est en train d'encourager ? Que fera cette jeune de 16 ans ou 17 ans qui est tombée enceinte après avoir eu de relation sexuelle consentante, soit elle se retrouvera contrainte à donner naissance à son enfant et d'assumer son rôle de fille-mère, avec ou sans le soutien de son conjoint ou de ses parents, soit certaines se verront obligées - et c'est une triste réalité, M. le président - de se faire avorter illégalement, avec tout son lot de risques, tant sur le plan physique, mental et pénal que cela entraînera. Ce n'est pas seulement un problème sociétal mais aussi un problème gouvernemental. C'est un sujet qui mérite qu'on s'y attarde avec une certaine compassion. C'est ce qu'il manque dans ce projet de loi, à mon avis. Même si j'accueille favorablement l'âge du mariage à 19 ans, M. le président, j'estime personnellement qu'il doit y avoir des dérogations dans certains cas exceptionnels. Il incombera alors à un juge d'accorder cette dérogation de manière exceptionnelle à ceux âgés de 16 ans ou plus, mais pas moins, suivant une enquête menée par le juge. Il faudra aussi que le concubinage soit aussi rendu illégal pour les moins de 18 ans. Je pense qu'en tant que parents nous savons tous que la majorité des problèmes liés aux enfants sont souvent le résultat d'un mauvais parentage. On ne peut pas le balayer d'un revers de la main, en disant que ce n'est pas le problème du gouvernement ; au contraire. Il faut que le gouvernement, les ONG et les associations religieuses ou socioculturelles travaillent de concert pour régler ce problème. Mais je n'ai rien vu de la sorte dans ce *Children's Bill*. Il ne faut pas qu'on se focalise uniquement sur les sanctions pénales, mais il est primordiale que des mesures préventives y soient aussi incluses.

Je propose ainsi qu'on rende obligatoire un cours de parentage, ne serait-ce que même pour une heure avant l'octroi d'un certificat de naissance par l'Etat civil, un cours de préparatoire qui mettra les parents devant leurs devoirs et responsabilités, mais aussi des droits de l'enfant, telles que les vaccinations et de la scolarité obligatoire, entres autres.

Je note aussi une omission de taille dans ce projet de loi, celle relative aux délits de drogue. Même si le gouvernement continue à y fermer les yeux, nous savons tous que les drogues, surtout les synthétiques, font des ravages dans notre société, et pire dans les milieux

scolaires. Que fait-on pour y mettre un frein ? Rien, M. le président ! Absolument rien ! Quand on parle de protection des enfants, on ne peut pas ignorer les problèmes auxquels ils sont confrontés, et un problème majeur actuellement demeure la drogue. Il faut impérativement que le gouvernement prenne le taureau par les cornes dès maintenant. Ce projet de loi pourrait être un pas dans cette direction. Pourquoi, par exemple, ne pas installer des caméras dans les écoles, les collèges ou autres établissements scolaires ou éducatifs ?

Avant de conclure, M. le président, j'aimerais m'attarder sur un sujet qui me tient à cœur, les enfants de la rue. Ma collègue, l'honorable Anquetil, l'a aussi évoqué. J'ai récemment rencontré lors d'une fonction à Plaine Verte, organisée par l'ONG *Rays Of Hope*, un enfant dont le sort a voulu qu'il doit dormir dans la rue près de la cathédrale de Port Louis. Cet enfant va à l'école comme tous les autres de son âge, mais sans que son prof ne sache qu'il n'a pas d'abri, il fait ses devoirs à la lumière d'un lampadaire public ; un travailleur social de ma circonscription – en passant je le salue, Monsieur A.M. – qui lui et son équipe et tous les autres travailleurs sociaux apportent à manger quotidiennement à ce petit ; sa grand-mère lave ses vêtements lorsqu'elle se rend chez une famille pour travailler comme bonne, et chaque nuit qu'il passe dans la rue, cet enfant encourt des risques, des dangers, il est exposé à des problèmes de tout genre, de la maladie aux fléaux, en passant par des risques d'abus et de violence. Que fait-on pour améliorer le sort de ces enfants ? N'ont-ils pas le droit à un logement décent ? N'ont-ils pas droit à une enfance paisible ? N'ont-ils pas droit à une éducation qui leur permettra de sortir de la misère et d'aspirer à un avenir meilleur ? Encore une fois, je n'ai rien vu dans ce *Children's Bill* pour ce genre d'enfant. Pourquoi sont-ils exclus ? Pourquoi ferme-t-on les yeux sur eux ? Ces enfants ne méritent pas qu'on les abandonne, c'est le devoir et la responsabilité de l'Etat mauricien de leur trouver une famille d'accueil ou un logement où ils pourront grandir en toute sécurité, M. le président.

M. le président, il en est de même pour les enfants des familles squatteuses. Un pourcentage des logements sociaux doit être réservé pour les familles qui n'ont pas de logement décent.

Le ministère de l'Egalité des genres doit travailler de concert avec le ministère du Logement et des terres pour trouver une formule qui pourrait résoudre ce problème, sinon on

risque de voir d'autres enfants mourir dans la rue comme on avait récemment vu après que des squatteurs avaient été jetés à la rue durant le confinement.

Finalement, j'ai l'impression, M. le président, que la ministre de l'Égalité des genres se concentre uniquement sur l'âge du mariage, dont je ne minimise pas les conséquences, au lieu de regarder le problème dans sa globalité. Je lance un appel à la ministre de rectifier le tir avant qu'on ne passe au stage de vote ; autant venir avec une loi complète que de venir avec une loi *piecemeal*.

Comme l'a si bien dit Kofi A. Annan : «Rien n'est plus important que de bâtir un monde dans lequel tous nos enfants auront la possibilité de réaliser pleinement leur potentiel et de grandir en bonne santé, dans la paix et dans la dignité.»

Merci pour votre attention, M. le président.

(4.04 p.m.)

The Minister of Information Technology, Communication and Innovation (Mr D. Balgobin): Mr Speaker, Sir, it is an honour for me to take part in the debates on the Children's Bill and I wish to start by congratulating my colleague, hon. Mrs Kalpana Devi Koonjoo-Shah, Minister of Gender Equality and Family Welfare, for having introduced this Bill to the National Assembly.

This Bill is close to our hearts as it is an important shield for our dear children. The cases of child sexual abuse especially by their close family members as well as cases of assault against vulnerable children are unfortunately a sad reality in Mauritius. This Children's Bill will help to protect, secure and contribute to the well-being of all the children in our Republic.

The Bill is a step toward a more comprehensive and modern framework in compliance with the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, both of which Mauritius is signatory.

Mr Speaker, Sir, the MSM Governments have always had the safety, health and well-being of our children at heart of their Government policies. For instance, one cannot deny that the main UN Conventions, namely Convention on the Rights of the Children on the Involvement of Children in Armed Conflict and Convention on the Rights of the Child on the sale of children,

child prostitution and child pornography pertaining to the safety of children have been signed by Mauritius whenever the MSM was in Government.

Mr Speaker, Sir, according to Statistics Mauritius reports entitled Gender Statistics published last year, the total number of cases reported at the CDU is on the rise and reached 6,225 in 2019.

Undoubtedly, we, on this side of the House, want to reverse the trend of child abuse. Every child in Mauritius deserves that his or her basic human rights be respected and this Government under the leadership of our Prime Minister is walking the talk and taking concrete actions with this Bill. We are determined to protect all children as if they are our very own. This Government is committed as usual to break the cycle of violence perpetrated by criminals. We strongly feel that it is our utmost responsibility as adults to protect our children. They depend on us and we depend on them too as they are our future and the future of this country. To permit their future to be taken away is to risk our very humanity.

Mr Speaker, Sir, this Bill is most important as it focuses on the promotion and the protection of the rights of children in our Republic. It will have a bearing upon all future generations when it will be enacted and implemented. Every child has the right to non-discrimination and attention has to be given to the best interest, whether related to the right to leave and to the right to development, and to lead a happy life.

It is shocking to note that, according to the World Health Organisation, it is estimated that globally around one billion children aged between 2 to 17 have experienced physical, sexual, emotional violence or neglect during the year 2019.

Mr Speaker, Sir, as a responsible Government, we will ensure that this new legislation brings a series of positive changes in our society. Future generations depend on the decisions we make today and there is no better time to act than now.

I hear hon. Eshan Juman talking about the age of 18 years of marriage; I think he did not understand till now. And, very rightly, my colleague hon. Teeluck mentioned last week, in his intervention on the Children's Bill, that, if a child under the age of 18 is not apt in law to choose whom to vote for only the five years' mandate, how can that child under 18 have the capacity to choose a life partner for him or her. This is why the minimum age of 18 will ensure that children

are able to give their free and full consent to marry and have a minimum level of maturity needed before marriage.

Allow me now to lay emphasis on the technological implications on the Children's Bill. Mr Speaker, Sir, section 22 makes provision for a new category of crime, namely child grooming. The explosion of information and communication technology has created unprecedented opportunities for children and young people to communicate, connect, share, learn, access information and express their opinions, but wider and more easily available access to the internet and mobile technology also poses significant challenges to children safety online. Parents here have a major role to play by reinforcing their vigilance.

Mr Speaker, Sir, section 26 of the Children's Bill makes provision for offences regarding bullying of a child whereby a person causes physical and psychological harm to a child. Here also we need to acknowledge the fact that such offences can happen online.

With regard to right to privacy, section 27 of the Bill makes provision that no person shall do an act which affects the privacy of a child, including publishing any information, including photographs, videos, audio recordings which will allow the child to be identified.

This is why it is important to include these provisions of the Bill to be able to protect our children who are easy prey to criminals online especially in this era of fast evolving technologies.

In addition to this Bill, child pornography, which is depictions of children involved in sexual activities, is being shamefully traded on the internet around the clock. It has been noted that there have been many global cases of such depictions being circulated on the internet. The Bill makes child pornography an offence and this is why it is important that it includes such provisions where these disgraceful acts become offences.

Mr Speaker, Sir, allow me to highlight that the Computer Emergency Response team (CERT-MU) which falls under the National Computer Board of my Ministry has set up a central system for reporting incidents occurring on social media and others including those related to children. The system is known as the Mauritian Cybercrime Online Reporting System (MAUCORS) and it is alarming to note that from January to October 2020 MAUCORS has recorded more than one thousand incidents where majority of these cases reported concern

children. And these incidents include offensive contents, identity theft, cyber bullying, sextortion, cyberstalking, etc. This information is used by different stakeholders, including the Mauritius Police Force, the ICTA, the DPO to investigate on the incidents reported and to act accordingly.

Mr Speaker, Sir, the Child Sex Offender Register Bill will enable the establishment of a Child Sex Offender Register which will monitor and track people in the community who have been found guilty of committing sexual offences against children and detect and investigate sexual offences against children. There would be undoubtedly consultations with my Ministry in the development of the registry for the Police which would be database for child sex offenders and kept in the able custody of the Commissioner of Police and there are consultations with the Ministry of Gender Equality and Family Welfare and the Ministry of Information Technology, Communication and Innovation to see that the register be digitalised and encrypted and the Commissioner of Police, in the interest of public safety and public order, as per sections 20 and 21 of the Child Sex Offender Register Bill may share relevant information to international institutions, for example, Interpol where and when needed.

Furthermore, with regard to the setting up of the Children's Court, high-end information technology facilities will be required. Provision is made in the Children's Court Bill to allow any Court at its discretion and on motion made by Prosecution to allow the Child victim or witness to depose through live videos or live television system. The role of the Children's Court will be to ensure that the best interest of children and young people are paramount to any proceedings. The Court only deals with children and young people as often they find it very difficult to testify in open court rooms. The proposed changes are geared towards increasing the comfort level of children and their ability to testify accurately and effectively thereby promoting justice in the court while preserving the integrity of the process.

At present, trials are often held several years after the incident and recording of victims' statement because of which very young witnesses have trouble remembering the details that are asked to provide to the court. Special child-friendly measures would also include the right to use video recorder statements of children and video links during court proceedings. The Children's Court Bill will also make provision for appropriate trained Police Officers who were specialised

in interviewing techniques with children including in the use of camera during interviews. This will help to avoid putting a child victim through further trauma.

Mr Speaker, Sir, the provisions which I mentioned earlier and which are related to technology have become more important to enhance the protection of our children as technology is progressing faster than ever. We are aware of the threats that children face online. This is why my Ministry is currently working on a new Cybersecurity and Cybercrime Bill 2020 which would enhance the level of protection given to our citizens online including our children.

The Children's Bill is not about making announcement or scoring any political points. As a caring Government, we are, through this legislation, ensuring that this Government and any following Governments are bound and accountable for their actions to the welfare of our children. It is also true that no one can meet this challenge alone. However, Mauritius, under the leadership of the Prime Minister, is contributing its part for consolidating the welfare of all children in Mauritius.

Today, Mr Speaker, Sir, the Government is presently presenting a comprehensive legislation to protect every child. So, let's roll up our sleeves and work together as this is a journey that will require each of us to persevere through setbacks to fight for the progress of one and all. This Government's response through this Bill will be judged by history for if it fails to meet it together will risk consigning the next generations to a bleak future.

Mr Speaker, Sir, if we can resolve to work tirelessly in common effort then we will achieve our common purpose, a country that is safer and a future that is worthy for our children. I wish to invite Members on the other side of the House to forget about petty politics at this point in time and to collaborate so that we can shape a better future for the children of this country.

I welcome the initiative of Government; I congratulate my colleague, hon. Mrs Koonjoo-Shah and I commend such Bill to this House.

I am done, Mr Speaker, Sir. Thank you.

(4.20 p.m.)

Dr. A. Ramdhany (First Member for Grand'Baie & Poudre d'Or): Mr Speaker, Sir, today, as policymakers sitting in this Assembly, we have a very serious duty at hand. We have the responsibility to give to this country a piece of legislation which aims at addressing the

imperfections of the existing legislations in the area of child protection. In fact, this Bill proposes the repeal of the Child Protection Act based on the implementation experience of child protection mechanisms. It also aims at ensuring a sustainable supply of quality human capital for the economic interest of this country.

Regardless of where we are sitting today, we may not deny that many children have been victims of different forms of abuses. Many children have been sexually abused, even murdered in some cases and those who have survived such atrocities have been reduced into helpless and voiceless victims of pain and traumas. Such traumas do certainly cause irreversibly personality disorders that the growing child has to live with.

Mr Speaker, Sir, while we are considering the merits of these important Bills, we have been exposed to atrocities imposed on an innocent child whose cries did not succeed in resounding at the desk of authorities as these atrocities were inflicted on Ayaan by parents who turned out to be the predators. The child's cries and pain remained unheard due to the failing parental and familial system when the home ceases to be the sweet home for the members and especially dependent children, when the person with the naturally designated parental responsibility turned out into a predator, when human beings stopped being human, when we find homes no longer as haven for the children, when we know that the lion may be roaming in the stable, when we are conscious that the fox is in the backyard garden, we may not remain insensitive, we have a duty to provide the right responses and this is the reason why we have to revisit the legislation for the protection of our children in this country. This Bill should not be a matter of any controversy as it is in the best interest of the children of this country.

Mr Speaker, Sir, while I approve the different provisions of this Bill without the least hesitation and without any doubt, I am supporting the provisions for harsher punishment both in the terms of fine and imprisonment up to 20 years in many cases. This Bill, while making provision for serious outcome for in-house predators at family level, it also takes care of anti-social issues of juveniles. We are all aware of the behaviour of the school children in school compounds, in group at bus stations, in the buses without the least consideration and respect for the school uniform and without any fear of being identified. We may have perhaps placed more emphasis on the right and downplayed upon the responsibility of the children. Mr Speaker, Sir, we have a duty to address the shocking juvenile delinquencies that are recurrently reported by

educators, public transport operators and our dear senior citizens who are recurrently exposed to cultural shocks while taking advantage of free travel in public buses.

I find it very appropriate that this Bill provides for the categorisation of juvenile in two distinct groups, while those between 12 and 14 will be given special consideration with regard to criminal responsibility for their acts, juvenile age above 14 will be held responsible for the illegal action, whether it is of sexual nature or for the possession of and dealing in illicit substances, specially synthetic drugs. These 14+ juveniles are conscious of their acts: they make a conscious choice, they consciously indulge in bullying within and outside school compound; they consciously choose to take illegal substances, they consciously make wrong use of communication device, they may therefore not feign ignorance. Of course, when dealing with children the authority has a duty of care and protection, however, the 14+ juveniles have a responsibility of being the correct model for the relatively young juveniles. Those less than 14 years generally emulate the behaviour of their senior at school. The 14+ school children have a duty show the way to their juniors. They have a responsibility to be the mentor to the juniors, they have a moral duty to protect the younger ones and refraining from bullying as the reports and records indicate that they are not assuming such responsibility. We have a responsibility in this House to make it clear to them that this Government will not tolerate such behaviours.

Mr Speaker, Sir, when the State is providing for free health and educational services amongst others, when the State is providing an enabling environment, when the State is assuming the role of the parent patria, the minimum the State expects in return is a form of accountability. The juveniles have to develop the sense of accountability; they have to assume responsibility for their inappropriate and anti-social behaviour. Mr Speaker, Sir, we may not turn a blind eye, we have the duty amidst declining birth-rate and the aging phenomenon to have a strategy, to have a sustainable supply of quality human resources, to face the challenges of this country's economy within a seriously challenged global economy. Our juveniles will be our human capital in a few years and their conscious behaviour tendency should not be allowed to jeopardise this country's economic objective. I, therefore, appreciate the comprehensive provisions of Section 3 (4) and Section 4 of this proposed Bill. Our children need direction and some families need support and strengthening. This Bill provides provision for mentoring services and dedicated Children's Courts.

Mr Speaker, Sir, sexual maturity may not be an indicator of emotional and psychological development. I support the total ban on marriage of children. This is a very significant provision in this Bill. As a responsible Government we need to show consistency on this matter. We may not allow children to be dragged out of school life and somehow being thrust into mature adult world and where they have not yet gone through young adulthood. Families may no longer succumb to pressure from children to provide consent for their marriage and irresponsible parents may no longer impose an untimely marriage on their children. This is a very strong provision in this Bill that clearly takes our society a level up. This Bill is providing for intellect to prevail over instinct.

Mr Speaker, Sir, I propose to end my intervention on this Bill now, but before ending I wish to congratulate the hon. Minister Fazila Jeewa- Daareewoo, Minister of Social Integration, Social Security and National Solidarity for her contribution as former Minister responsible for child development. I also want to congratulate the Minister, hon. Kalpana Koonjoo-Shah who has deemed it her duty to complete the process to have the Children's Bill presented in this House in the best interest of the children and the whole population of Mauritius.

Thank you, Mr Speaker, Sir.

(4.30 p.m.)

Ms J. Bérenger (First Member for Vacoas & Floréal): Merci, M. le président. D'emblée je souhaiterais exprimer ma gratitude concernant la présentation de ces trois projets de loi. Dans l'intérêt de nos enfants, je pense qu'il est important que nous trouvions un consensus et que ces trois projets de loi soient adoptés, mais avec quelques amendements.

Mon intervention sera donc axée sur quatre thèmes principaux. Je ferai des suggestions, je relèverai certaines lacunes et contradictions. Tout d'abord, grand a été mon étonnement en lisant la section 19 (3) (b), qui se lit comme suit –

“(3) The following shall not constitute an offence under subsection (1) (a) -

*(b) an indecent act (attentat à la pudeur) upon a child aged 12 or above
but under the age of 18, where the child has consented thereto;”*

Cette section va à l'encontre même de l'esprit de la loi, non seulement il n'y a pas la définition de ce qui est un '*indecent act*' mais si l'on assume qu'il s'agit là d'un acte sexuel, un enfant de 12 ans ne peut certainement pas consentir à un tel acte en pleine conscience des enjeux que cela constitue. Un enfant de 12 ans n'a pas la maturité nécessaire pour cela.

D'ailleurs, les études montrent que le développement du cerveau humain n'arrive à maturité qu'à 25 ans. Prétendre qu'un enfant de 12 ans peut consentir à des actes indécents alors qu'il n'a pas conscience de ce que cela représente, c'est infliger une violence sexuelle à cet enfant. Le consentement n'est pas défini non plus et je pense que c'est un élément important qui revient souvent, et en parlant de consentement je constate que le projet de loi vient s'aligner sur l'article 20 et l'article 55 section (f) de la recommandation générale No. 31 du Comité pour l'Élimination de la Discrimination à l'égard des Femmes et du Comité des Droits de l'Enfant qui suggèrent que l'âge légal minimum du mariage soit fixé à 18 ans avec ou sans consentement des parents. Cette mesure est importante pour la protection des enfants et notamment des filles qui, selon les chiffres, sont plus concernées par les mariages précoces que les garçons. Je suis en effet de ceux qui pensent que du mariage précoce découle beaucoup de problèmes sociétaux. La jeune fille ou le jeune homme manque de maturité psychologique et neurologique, comme je l'ai dit plus tôt, pour évaluer pleinement les enjeux qu'implique le mariage. Les cas de dépendance de servitude sexuelle et économique et inégalité dans les relations hommes/femmes sont fréquents dans les mariages d'enfants selon le rapport de l'UNICEF de 2008 sur le *child marriage*.

Le problème de grossesses précoces est à considérer bien évidemment mais indépendamment de celui du mariage des enfants parce que le lien entre mariages précoces et inégalité de genres, risques aggravés de chômage, de dépression et de violence domestique est indéniable. Et la violence dans notre société, malheureusement, nous la retrouvons à bien d'autres endroits. En vérité elle est partout : dans les rues, dans les écoles, sur les routes et même ici au Parlement avec la violence verbale alors que nous aurions dû donner l'exemple.

Et, la violence, elle est aussi et surtout dans les foyers. À travers la section 14, l'interdiction de châtiments corporels n'est plus restreinte au milieu scolaire, ce qui est une excellente chose. Mais, encore trop souvent, les violences éducatives dites ordinaires, incluant fessées mais aussi humiliation, violence verbale sont banalisées alors qu'aucune étude ne montre que violenter un enfant est efficace pour lui faire comprendre. Aucune étude ne montre que

violenter un enfant est efficace pour le corriger. Aucune étude ne montre que cela lui fera comprendre quelle a été son erreur, bien au contraire, les études montrent que violenter un enfant ont un effet négatif sur lui et sur son développement cérébral.

Donc, les études montrent que violenter un enfant n'est pas bon pour son développement et Catherine Gueguen, pédiatre et spécialiste des neurosciences, explique que la violence est à la source de nombreux maux dont souffrent les adultes et les enfants. Les abus physiques et sexuels dans l'enfance augmentent le risque de recourir au suicide, d'avoir des symptômes dépressifs et des troubles de l'humeur plusieurs années plus tard.

La maltraitance infantile marque donc le cerveau mais pas seulement. Les chercheurs de plusieurs universités dont celle d'Harvard ont découvert que les violences subies dans l'enfance laissent également une trace biologique dans l'ADN. Ce qui pourrait expliquer pourquoi il peut paraître naturel entre guillemets pour quelqu'un qui a été violenté dans son enfance de reproduire ensuite cette attitude une fois adulte et souvent inconsciemment.

C'est pourquoi je me réjouis de cette mesure d'interdire les châtiments corporels mais il est primordial qu'on ne s'arrête pas là. Il est primordial de faire connaître aux professeurs et aux parents dès la grossesse les méthodes alternatives, de leur donner les outils nécessaires pour grandir leurs enfants sans violence et dans la bienveillance, que leur soient expliqués que c'est l'attitude empathique, calme, douce qui permettra aux remarques de l'adulte d'être entendues et que plus l'enfant aura reçu d'empathie moins il sera nécessaire de le corriger puisqu'il aura intégré progressivement ce que l'adulte lui aura transmis, comme le dit le docteur Gueguen.

Et, la discipline positive est une méthode pouvant procurer ces outils aux parents et aux professeurs. Mardi dernier en réponse à ma question supplémentaire concernant la délivrance des formations sur la discipline positive, la ministre de l'Education avait répondu que c'est la MIE qui se charge de la formation des professeurs sauf que selon mes renseignements, les officiers de la MIE ne sont pas formés à la discipline positive. La discipline positive fondée par Jane Nelsen ne se résume pas à l'éducation sans punition corporelle. La discipline positive est fondée sur une éducation bienveillante et ferme basée sur le respect mutuel et l'encouragement plutôt que la colère et la violence. Je serai la première à le reconnaître. Ce n'est pas toujours facile de chasser les habitudes mais c'est une méthode qui a fait ses preuves sur le long terme et à travers le monde. Protégeant les plus faibles, cessons d'utiliser la violence, il existe des méthodes

alternatives et efficaces. Ayant à cœur l'intérêt de nos enfants et le bien-être de notre société, c'est ce que je souhaiterais voir être implémenté et rajouté dans le projet de loi. Que les professeurs soient obligatoirement formés l'éducation bienveillante et que les parents puissent bénéficier de cette formation à la parentalité bienveillante dès la grossesse.

Car comme je le disais un peu plus tôt, les auteurs de violences ont souvent eux-mêmes des défaillances dans leur construction personnelle dues à un attachement insécurisant et courent le risque de reproduire ce même schéma avec leurs enfants. Et, selon les professionnels, la plupart du temps, les auteurs de violences physiques ont recours à des violences chroniques. Il est très rare qu'un enfant succombe car ayant reçu des coups de façon exceptionnelle. La plupart du temps, il s'agit de violences qui ont lieu depuis longtemps d'où l'importance de dénoncer mais surtout de sensibiliser à l'importance de dénoncer.

Les enfants ont besoin de nous, adultes, pour les protéger car souvent ils ne sont pas en position de le faire pour eux-mêmes. Il est donc bon que le projet de loi responsabilise ceux qui ont connaissance d'un cas de maltraitance mais trop souvent des personnes sont tentées par l'indifférence. Il est donc essentiel de sensibiliser à l'importance de dénoncer, de sensibiliser aux facteurs alarmants, d'éduquer pour savoir reconnaître un problème. Mon collègue, l'honorable Eshan Juman, nous racontait l'histoire triste du petit Ayaan un peu plus tôt où personne n'a posé de questions quant à son traumatisme à l'épaule et personne n'a posé de questions quant au fait qu'il n'est pas retourné à l'hôpital le lendemain.

Il est important de sensibiliser à ce qui devrait mettre la puce à l'oreille dans les cas de maltraitance, aux risques encourus, à l'importance d'être attentif car, oui, protéger nos enfants demande une certaine ouverture de cœur et d'esprit.

Aussi parfois certaines personnes sont tentées de ne pas dénoncer par manque de courage ou pensent à tort qu'un enfant ne peut pas être victime de ses parents sauf que dans la majorité des cas, les violences sur les enfants se passent au sein même de la famille et que les enfants ne savent pas que leur famille n'a pas le droit de les violenter. Ils n'ont trop souvent pas la connaissance nécessaire pour cela et c'est pourquoi il est important de les sensibiliser eux-aussi sur leurs droits sauf que les droits ne sont pas définis dans ce projet de loi.

Un peu plus tôt, j’entendais ma collègue, l’honorable membre Joanne Tour dire qu’il est important de respecter les droits des enfants. Je suis totalement d’accord sauf qu’à part le *Right to Privacy* à la section 27, les droits des enfants ne sont pas définis.

Qu’en est-il du droit au logement? L’article 27, section 3 de la Convention internationale relative aux droits des enfants, donc Maurice est signataire depuis 1990, stipule clairement que l’État a la responsabilité d’aider les parents à mettre en œuvre les droits des enfants notamment en ce qu’il s’agit de l’alimentation, du vêtement et du logement. C’est quand même assez ironique que soit débattu le *Children’s Bill* pendant que des enfants dorment encore à la belle étoile.

Et qu’en est-il du droit à la santé, à l’opinion? Je mentionnais le droit à la santé, nous n’avons toujours pas d’hôpital pédiatrique et les enfants sont envoyés à l’étranger pour des soins dans un environnement qui leur est totalement inconnu.

Qu’en est-il du droit aux loisirs ; du droit à la culture ; du droit à l’éducation dans sa langue maternelle? Il ne faut pas oublier les droits civils et liberté des enfants tels qu’ils sont mentionnés dans les articles 24 à 32 de la Convention des Nations unies relatives aux droits des enfants.

Je pense qu’il serait très important de les mentionner clairement ; de mentionner clairement quels sont les droits des enfants et surtout de les faire connaître. Les enfants doivent pouvoir connaître quels sont leurs droits et quels sont les recours disponibles quand ceux-ci ne sont pas respectés. Ce qui m’emmène alors aux sections 32 et 33 concernant les cas rapportés et au rôle de la police qui intervient désormais dans les enquêtes.

La section 32 – *Reporting procedure in case of child in need of care and protection* et la section 33 - *Investigation and assessment of child in need of care and protection* font référence à la police et aux *authorised officers* sans dire de qui il s’agit. Qu’en est-il des officiers de la CDU? Si je comprends bien désormais les cas de maltraitance seront directement rapportés à la police qui n’a, à ce que je sache, pas la formation dont auraient bénéficié les officiers de la CDU pour travailler avec les enfants.

Pourquoi cette mise à l’écart? Je ne dis pas que la CDU fonctionnait comme il fallait. Bien au contraire, mes collègues avant moi ont largement soulevé les dysfonctionnements de la

CDU. Mais que se passera-t-il avec ces officiers déjà formés à travailler avec ce genre de cas et avec les enfants? Est-ce que c'est d'eux, dans le projet de loi, parle comme étant les *authorised officers*? Sinon est-ce que les officiers de la police ont été formés pour gérer les situations de maltraitance et travailler avec les enfants? Je ne généralise pas mais certainement dû à un manque de formation, nous avons vu des cas de maltraitements qui n'ont pas été pris au sérieux par des policiers dans le passé et qui ont malheureusement fini en drame. On se souvient encore de ces deux enfants venus chercher du secours auprès de la police, mais n'ayant pas été cru, n'ayant pas été pris au sérieux comme il le faudrait, ils sont rentrés chez eux désespérés pour retrouver le corps de leur mère sans vie. D'où ma question, la police et les *authorised officers* qui sont mentionnés dans ces sections ont-ils bénéficié des formations nécessaires?

Avant d'en arriver à la responsabilité pénale, j'aimerais toucher un mot sur la section 41 et les *minors with behavioural concern* en faisant référence à ce que l'honorable ministre, le Dr. Jagutpal avait dit un peu plus tôt par rapport à l'ancienne expression '*minors beyond control*' et au fait que cette ancienne expression empêchait leur suivi thérapeutique. Je serais ravie que ces jeunes, les *minors with behavioural concern*, puissent bénéficier effectivement d'un suivi psychologique et j'espère même que cela sera rajouté dans la loi et sera rendu obligatoire pour eux et pour leurs familles.

Enfin, j'en arrive à la responsabilité pénale et à l'âge de 14 ans. C'est mieux que 12 mais ce n'est toujours pas suffisant. À mon avis, il serait plus raisonnable de fixer l'âge de la responsabilité pénale à 16 ans. D'un point de vue psychologique, si un enfant bénéficie de l'environnement nécessaire à sa construction autrement dit en premier lieu, de l'attention et d'un attachement sécurisant, il n'agira pas d'une manière à se mettre lui-même et les autres en danger. Un enfant qui se comporte mal est un enfant découragé comme le dit Jane Nelsen. Sa place n'est donc certainement pas en prison mais dans un environnement sécurisant où il bénéficiera d'accompagnement et de support et l'on ne peut ignorer une réalité qui est celle des inégalités flagrantes qui existent parmi les enfants de notre pays. Ces inégalités sont à prendre en compte lorsque l'on parle de responsabilité pénale car ce ne sont certainement pas les enfants évoluant dans un milieu sécurisant qui risqueront le plus d'avoir des problèmes avec la justice. Alors se pose la question, l'enfant peut-il être tenu responsable de ses actes quand son environnement est coupable de son mauvais développement ? D'un point de vue scientifique, le cortex préfrontal, la partie supérieure du cerveau responsable des prises de décisions morales, de la planification, de

la logique est la dernière à atteindre son fonctionnement optimal. Cette partie du cerveau n'est pleinement mature qu'à 25 ans selon Daniel Siegel, Professeur de psychiatrie et un des experts mondiaux du cerveau de l'enfant. Donc, le cerveau de l'adolescent n'est pas totalement fonctionnel et n'a pas encore terminé sa construction. Dans l'affaire Roper versus Simmons, l'Association Médicale Américaine alertait en 2005 la Cour suprême des USA sur le fait que les adolescents ne peuvent prendre les décisions comme les adultes car leur cerveau n'étant pas aussi mature puisque les adolescents ne peuvent pas prendre les décisions qui s'imposent comme des adultes, est-il légitime de les sanctionner comme des adultes ? Cela ne veut pas dire bien évidemment qu'ils peuvent faire ce qu'ils veulent mais il faudrait d'abord qu'ils comprennent leurs erreurs et puissent ainsi bénéficier d'un suivi thérapeutique et d'une réhabilitation digne de ce nom. Ce que nous avons actuellement avec le système du *Rehabilitation Youth Centre* et du *Correctional Youth Centre* ne permet pas à l'enfant de développer des valeurs morales et des attitudes socialement acceptables et c'est pourtant ce à quoi devrait aspirer un vrai programme de réhabilitation.

The African Union Principles and Guidelines on the Right to a Fair Trial recommande l'âge de 15 ans pour la responsabilité pénale. Nous devrions nous en inspirer et même aller au-delà. 16 ans me semble donc plus raisonnable pour les raisons évoquées.

Pour terminer, M. le président, comme je le disais j'accueille favorablement ce projet de loi. J'espère sincèrement que les recommandations faites par les professionnels de l'enfance et nos suggestions seront prises en considération mais surtout que la logistique nécessaire sera mise en place pour sa mise en application.

Permettez-moi de conclure en rappelant que les études montrent qu'à la source de la pédocriminalité, à la source des violences domestiques, à la source des cas de maltraitance se trouvent des attachements défaillants. Donc, il nous faut absolument investir dans la formation pour éviter de rectifier les défaillances par la suite, il vaut mieux prévenir que guérir comme on dit. J'insiste sur cette nécessité d'investir dans la formation, dans l'attachement, dans l'encadrement, dans l'écoute attentive de l'enfant et de ses besoins. Plus on investira dans la formation des magistrats, des parents, des professeurs, des officiers, de tout personnel travaillant avec les enfants, plus nous aurons des chances d'éviter des cas de maltraitance et plus nous

aurons des chances d’avoir des enfants épanouis qui deviendront par la suite des citoyens stables et équilibrés et qui contribueront à une société en bonne santé.

Je finirai par cette citation de Frederick Douglass –

« Il est plus facile de construire des enfants solides que de réparer des adultes brisés. »

Je vous remercie pour votre attention.

Mr Speaker: Hon. Members, I suspend the sitting for half an hour.

At 4.52 p.m., the sitting was suspended.

On resuming at 5.36 p.m. with Mr Speaker in the Chair.

Mr Speaker: Please, be seated! Hon. Mrs Mayotte!

Mrs S. Mayotte (Second Member for Savanne & Black River): M. le président, je suis contente de constater que la plupart des intervenants de l’autre côté de la Chambre accueillent favorablement ce projet de loi avec, bien sûr, quelques suggestions dans le but de l’améliorer, c’est cela un débat démocratique. J’ai même noté que l’honorable Joanna Bérenger et l’honorable Kalpana Koonjoo-Shah ont toutes deux conclu leurs interventions sur la même note avec la même citation de Frederick Douglass.

Il est important de garder à l’esprit que les enfants représentent non seulement notre avenir mais incarnent également le présent sur lequel se construit l’avenir. Étymologiquement, le terme ‘enfant’ vient du Latin ‘*infans*’ qui signifie ‘celui qui ne parle pas’. Cette notion a beaucoup évolué à travers les siècles et les cultures pour finalement désigner l’être humain de sa naissance jusqu’à l’âge adulte. Mais cette conception de l’enfant était l’âge et l’âge de la majorité variait d’une culture à une autre.

La Convention internationale relative aux droits de l’enfant définit de manière plus précise le terme ‘enfant’. Je cite –

“Tout être humain âgé de moins de dix-huit ans, sauf si la majorité est atteinte plus tôt en vertu de la législation qui lui est applicable.”

L’idée transmise à travers cette définition, et l’ensemble des textes de protection de l’enfance, est que l’enfant est un être humain avec des droits et une dignité. Ce qui caractérise l’enfant, c’est sa jeunesse et sa vulnérabilité. En effet, l’enfant est un être en pleine croissance, un adulte en

devenir qui n'a pas les moyens de se protéger seul. Aussi, l'enfant doit faire l'objet d'un intérêt particulier et d'une protection spécifique. Le monde des humains est un endroit cruel, abîmé par la dureté et la méchanceté des hommes. On dit d'un comportement barbare ou atroce qu'il est inhumain, alors que paradoxalement il émane d'un être humain. Alors faut-il donc accepter la cruauté d'un monde où l'avidité des uns et l'indifférence des autres traitent comme négligeable la vie des enfants ? C'est surtout pour cette raison, M. le président, que je me permet aujourd'hui de remercier et de féliciter la ministre de l'Égalité du genre, l'honorable Kalpana Koonjoo-Shah, d'avoir porté ce projet de loi à la table des débats dans cette auguste Assemblée, tout en ayant une pensée pour l'honorable Fazila Jeewa-Daareeawoo qui a aussi sa contribution dans l'écriture de ce projet de loi car elle était à cette époque la ministre de tutelle.

Ce projet de loi, tant attendu, est la confirmation que ce gouvernement avec comme Premier ministre, l'honorable Pravind Kumar Jugnauth, tient ses promesses. Souvenez-vous qu'à la page 34 du programme gouvernementale 2020-2024, il est écrit, je cite –

“Our children are the future of our country and the protection of their rights is a priority. To this end, a new Children’s Bill will be introduced very soon”.

Cela dit, M. le président, le *Children’s Bill*, le *Child Sex Offender Register Bill* et le *Children’s Court Bill* sont aujourd'hui une réalité que nous devons tous soutenir. Le *Children’s Bill* prévoit de promouvoir une société inclusive mettant en avant les intérêts de l'enfant. L'objectif principal de ce projet de loi est d'abroger la loi sur la protection de l'enfance et la loi sur les mineurs, et de la remplacer par un cadre législatif plus approprié, complet et moderne afin d'offrir une compréhension plus large, plus accessible, eu respect de la Convention des Nations Unies relatives aux droits de l'enfant et à la Charte africaine des droits et du bien-être de l'enfant. Ce projet de loi sur les enfants traite, entre autres, des devoirs et responsabilités des enfants, des responsabilités et droits parentaux, de la prestation de service aux jeunes délinquants et aux enfants non-délinquants mais perturbés, l'âge de la responsabilité pénale revue de 12 à 14 ans, la création d'un département de coordination des services à l'enfance qui agira comme médiateur interinstitutionnel, l'interdiction du mariage des enfants pour ne citer que cela, je dis bien ‘pour ne citer que cela’, car à mon humble avis, M. le président, ce projet de loi est complet.

M. le président, nos enfants mauriciens ne sont pas épargnés de tous ces drames humains qui font partie de notre quotidien. Les enfants et les sociétés continuent de souffrir des

conséquences négatives de l'éclatement des familles, des violences domestiques, de l'abandon des enfants, les divorces, de l'incarcération des parents, et j'en passe. Nos enfants sont souvent des laissés-pour-compte qui deviennent des adultes avant l'âge, qui doivent se débrouiller seuls. Les deux parents ont le devoir de partager les responsabilités communes dans le développement et l'accompagnement de l'enfant et l'éducation qu'ils reçoivent doit intégrer le respect des parents et les parents se doivent de respecter leurs enfants.

Aujourd'hui, malheureusement, tel n'est pas le cas. Nombreux sont les enfants et les parents qui ne jouent plus leurs rôles respectifs. Les rôles sont souvent inversés. Alors il est temps que les mentalités changent. Quand les parents se déchirent, ce sont les enfants qui se retrouvent au centre de ces drames parentaux : séparation, enlèvement, droit de garde etc. Et justement, concernant la question des enlèvements, une démarcation claire est établie aux articles 16 et 17 de ce projet de loi entre l'enlèvement d'un enfant par un parent et celui commis par une autre personne. La peine pour une infraction commise par un parent, ici, est la servitude pénale pour une durée n'excédant pas cinq ans. En revanche, lorsque cette infraction est au contraire commise par toute autre personne qui enlève l'enfant ou le fait de l'emmener sans le consentement écrit d'un parent, la peine c'est la servitude pénale pour une durée n'excédant pas vingt ans.

Il est important de prendre conscience que certaines formes de violences sexuelles peuvent être encouragées par des pratiques sociales, par exemple, le mariage précoce des filles et des jeunes femmes, et dans de nombreuses situations de crise, le mariage précoce et forcé de jeunes filles est le catalyseur du viol conjugal. Les violences sexuelles infligées aux enfants sont le plus souvent perpétrées par un proche qui vient trahir la confiance de ce dernier et, par conséquent, le recours à la force physique est rarement nécessaire pour impliquer un enfant dans une activité sexuelle car celui-ci ou celle-ci fait confiance souvent à cet adulte dont il ou elle est proche, et dont il dépend souvent. Les enfants ont tendance à penser que les comportements des adultes sont toujours appropriés ou que les adultes ont une autorité incontestable. Les auteurs de ces vices sexuels profitent de ces faiblesses.

L'article 22 du projet de loi prévoit que le *grooming*, tentative de séduction des enfants, est une infraction pénale. Le *grooming* c'est quand quelqu'un établit un lien émotionnel avec un enfant pour gagner sa confiance à des fins d'abus sexuels, d'exploitation sexuelle ou d'autres

délits envers les enfants. Les enfants et les jeunes peuvent être atteints, en ligne ou en face-à-face, par un inconnu ou par une personne qu'ils connaissent. Les tentatives de séduction peuvent également conduire à une exploitation commerciale et sexuelle. Toute personne qui commet une telle infraction sera passible d'une peine d'emprisonnement ne dépassant pas 20 ans lorsque l'enfant est en situation de handicap physique ou mental et de 10 ans dans tous les autres cas.

M. le président, l'intimidation des enfants est de plus en plus récurrente. Il est grand temps que nous adoptions des mesures appropriées pour protéger nos enfants de tels actes. En vertu de l'article 26 du projet de loi, toute personne qui commet des actes d'intimidation contre un enfant sera passible d'une amende ne dépassant pas un million de roupies et d'une peine d'emprisonnement ne dépassant pas 10 ans.

Nous avons récemment été témoins de situations où des adultes utilisent des enfants vulnérables pour commettre des infractions, en particulier, des infractions liées aux drogues. En vue de renforcer notre cadre législatif pour empêcher les enfants de devenir la proie de ces personnes sans scrupules, le projet de loi a introduit une disposition sur, je cite - «causer ou inciter un enfant à commettre des actes illicites ». En vertu de l'article 28 du projet de loi : «Toute personne qui cause ou incite un enfant à commettre un acte illégal commet une infraction et est passible sur déclaration de culpabilité de la peine prévue pour cet acte illégal ».

Le projet de loi sur la participation des enfants prévoit également que les enfants ont le droit de participer aux questions qui les concernent et que toutes les opinions exprimées par l'enfant doivent être dûment prises en considération. Respecter son enfant veut dire l'éduquer, le protéger, le nourrir, lui enseigner les vraies valeurs. Le projet de loi prévoit que les enfants, témoins et mineurs délinquants, soient interrogés par la police en présence d'un parent et en l'absence de ce dernier, en présence d'un agent de probation.

Toutes les amendes et la servitude pénale ont été revues en fonction des dégâts physiques et/ou psychologiques causés aux enfants. La procédure de signalement dans le cas où un l'enfant aurait besoin de soins ou de protection a été énoncée dans ce projet de loi. Lorsqu'une personne a des soupçons raisonnables qu'un enfant est exposé à un préjudice, elle sera tenue de signaler l'affaire à la police pour une assistance immédiate. Lorsque le cas d'un enfant est signalé par la police à l'officier de contrôle du ministère de l'Egalité du genre susceptible de subir un préjudice

grave et qu'il n'y ait d'autres moyens moins intrusifs de protéger l'enfant, l'officier devra immédiatement faire le nécessaire pour aider cet enfant.

Le concept d'enfant incontrôlable a fait l'objet d'un débat national et il existe un consensus général sur le fait que l'approche existante devrait être réformée. Des enfants qui ont passé leur premier temps de vie dans un environnement caractérisé par le chaos et l'imprévisibilité des relations, qui ont été confrontées à des mères et/ou à des pères en grande difficulté psychique qui n'ont pu s'accorder à leurs bébés et leur ont fait vivre de façon fréquente et répétée des situations de négligence grave, de violence, de séduction pathologique, d'implication dans des idées délirantes - et bien ces enfants présentent tous un profil singulier qui se manifeste, notamment, par des troubles graves de l'intelligence, de la gestion des émotions, du comportement et des capacités relationnelles, donc de socialisation. La plupart sont considérés comme des cas lourds. On les appelait des enfants incontrôlables car peu de structures d'accueil, pas de soins et d'enseignement qui leur étaient adaptés et les difficultés de leur prise en charge décourageaient ou effrayaient souvent les professionnels.

Eh bien, le projet de loi, M. le président, introduit une proposition alternative, celle des enfants ayant de graves problèmes de comportement. Abandonnons le concept enfant incontrôlable.

M. le président, ce projet de loi prévoit d'abolir l'institutionnalisation des enfants qui n'ont pas été jugés coupables d'une infraction criminelle et même dans le cas de ceux jugés coupables puisqu'il favorise des peines alternatives et non privatives de liberté. Ainsi, notre centre de probation et de suivi aidera le parent à s'acquitter de ses obligations parentales en ce qui concerne la gestion du comportement de l'enfant grâce à une évaluation psychosociale et une intervention de soutien parental. Ce projet de loi prévoit également des services de soutien spéciaux en matière de conseils et de thérapies pour les enfants de moins de 14 ans qui ont commis une infraction et dont ils ne sont pas pénalement responsables par le service de probation. La détention des mineurs en conflit avec la loi sera une mesure de dernier recours.

M. le président, nous savons que les enfants ne peuvent se rétablir et guérir de violences sexuelles subies mais je suis sûre qu'un encadrement hospitalier adéquat pourrait contribuer à panser leurs blessures physiques et mentales s'ils reçoivent des soins et un traitement approprié adapté à leur âge et prodigué avec compassion par des professionnels d'aide à l'enfance.

Je voudrais, M. le président, saluer l'effort du *Child Development Unit* ainsi que celui du ministère de la Santé, à travers son ministre, pour l'effort quant à la prise en charge des enfants victimes de violence ; des filles-mères qui sont souvent très jeunes et qui doivent, comme les autres, subir le regard des adultes et souvent de leurs parents ou alors subir des réactions pas toujours encourageantes de leurs parents mais combien compréhensibles. Ce ne sont que des enfants mais des enfants qui ne jouent plus à la poupée, des petits garçons qui ont toujours besoin des bras de leur père et qui vont devenir 'papa'.

Aujourd'hui, nous sommes tous responsables de cela. Quand je dis, nous, je veux parler de la société car il faut reconnaître la société nage des fois malheureusement à contre-courant quand il est question de responsabilité. On a tendance à fuir devant nos responsabilités et à tout mettre sur le dos des autorités. Voilà maintenant il y a un projet de loi en faveur des enfants mais également en faveur des parents. À nous parents d'assumer nos responsabilités et de jouer notre rôle avec fermeté, tendresse et amour.

Sur ce, M. le président, permettez-moi de conclure avec ces quelques lignes d'Antoine de Saint-Exupéry, auteur du très célèbre «Le Petit Prince», comme mots de la fin.

Saint-Exupéry, alors qu'il écrivait son livre «Le Petit Prince», ce roman qui est considéré comme un *best-seller*, a voulu dédier ce livre à un ami qui lui était très cher et cet ami s'appelle Léon Werth –

«Je demande pardon aux enfants d'avoir dédié ce livre à une grande personne. J'ai une excuse sérieuse : cette grande personne est le meilleur ami que j'ai au monde. J'ai une autre excuse: cette grande personne peut tout comprendre, même les livres pour enfants. J'ai une troisième excuse: cette grande personne habite la France où elle a faim et froid. Elle a bien besoin d'être consolée. Si toutes ces excuses ne suffisent pas, je veux bien dédier ce livre à l'enfant qu'a été autrefois cette grande personne. Toutes les grandes personnes ont d'abord été des enfants. (Mais peu d'entre elles s'en souviennent.) Je corrige ma dédicace:

À LÉON WERTH

QUAND IL ÉTAIT PETIT GARÇON »

Je vous remercie, M. le président.

(5.53 p.m.)

Mr X. L. Duval (Third Member for Belle Rose & Quatre Bornes): Mr Speaker, Sir, the House may be aware that the Children's Bill has taken a long time before coming to Parliament. In fact, I remember something like seven years ago, then hon. Mireille Martin was involved in the drafting of the Bill, with the help at the time of the European Union. So, it should be no surprise to the previous orator and to everyone in this House that there is general consensus in this House as to the contents of the Bill because most political parties have, at some point in time, been working on this Bill and been finalising it. That does not mean that the Minister does not have qualities, should not be congratulated in bringing the Bill to the House today. It has taken a long time and I must say that on behalf of the PMSD and, I think, of the Opposition, that we welcome this piece of legislation. There will be, obviously, differences of opinion in the party, in the Opposition as to some specific provisions of the Bill, the age of marriage, the age of criminal responsibility, etc., but generally, the Bill, as I said, has been worked on by virtually all political parties in the past, and is not much changed from what I had seen so many years ago. So, the Bill is a welcomed addition to our laws, to our legislation. It is a much more comprehensive piece of legislation than the Child Protection Act that it repeals.

Now, without going into the finer details at this stage, let me say that no one can really argue with the legal provisions of the Bill, I mean what should be in the best interest of children or the clauses dealing with offences, discrimination, ill treatment, abandonment, pornography, prostitution, bullying. I mean you have really got to be sick not to agree with the main objectives of the Bill. So, I think it is no surprise that this cuts across party politics. Similarly, I agree with the provision for the harsher sentences when there are aggravating circumstances, abuse of physically or mentally handicapped children, which are despicable aberrant crimes.

Mr Speaker, Sir, I have no qualms either about the new absolute requirement for the marriage at 18 years. I have no problem with that and I went to the trouble of getting the figures, the desegregated figures from Statistics Mauritius, to see in fact, what we are talking about because the figures are not published for marriages at the age of 16 and at the age of 17 but when we ask Statistics Mauritius, they provide you with the information if you take the trouble to ask them and, in fact, there are roughly 120 to 130 marriages every year of girls - these are girls we are talking about - marrying at the age of 16 and at the age of 17. So, about 60-70 at the age of

16 and the same at the age of 17. We are talking about 10,000 marriages a year, so it is a very small percentage of people getting married before the age of 18. But, nevertheless, I mean, we are talking about 120-130 people, 130 lives, so at the same time that it is small, it is nevertheless important that we do everything to protect these 120-130 young lives. So, I agree personally with the absolute now requirement to get married at the age of 18. Now, of course, as has been raised in this House, there will be issues about early pregnancy, etc., but we must agree also as a society that this is now much less of a stigma, much less of a taboo than it was 20, 30, 40 years ago. Society has moved on and our legislation, Mr Speaker, Sir, is moving on, and I have, as I mentioned, no problem with that as far as the age of 18 is concerned.

The other issue is the age of criminal responsibility, 14 years, which I think was the same previously in Mauritius. That is unchanged. It is within the acceptable range per international norms. I think, Mr Speaker, Sir, that it is right to set the age at 14 because the higher age would tempt for instance, drug peddlers, et cetera, to abuse of our children and get them to work as muse, get them to work as lookouts, get them to assist in the drug trade, which they are already doing by the way. But that would encourage it more and putting the age of criminal responsibility or keeping the age of criminal responsibility at 14 will *responsabilise*, if you want, the young.

However, Mr Speaker, Sir, and this is an important point, same as we have aggravating circumstances for people, same as we say that if someone is a person of responsibility vis-à-vis a child and he abuses of that responsibility that is an aggravating circumstance. But surely, if we can go to the aggravating circumstance, we must be able to go to the mitigating circumstances and I am sad to see that whilst we are saying that a child of 14 is criminally responsible, nowhere in the legislation do we say to the Judges that age should be also a mitigating circumstance. As has been said before me by various speakers, Mr Speaker, Sir, you are young, we make mistakes. We all make mistakes when we are young, sometimes mistakes that we bitterly regret afterwards, that we would not make if we were older.

Therefore, the law, Mr Speaker, Sir, must recognise that fact. Let us say okay, the Judge has said you are guilty, you are guilty, but surely, you cannot be subjected to the same punishment as someone who ought to know better, through age at least. And, therefore, Mr Speaker, Sir, I am asking the hon. Minister, this law is incomplete if you do not put in the law

that there should be mitigating circumstances relating to very young age of offenders. Obviously, the Judge, in his wisdom, would take that into consideration I suppose, but why leave it to the Judge when we can do our job here in Parliament.

And secondly, Mr Speaker, Sir, sending a young perpetrator to prison, to incarceration at least, that should be avoided in most cases because we all know that when you send a young person, especially, and lock them up in the company of other naughty boys and girls, of other criminals, then they become hardened criminals. And so, Mr Speaker, Sir, also, I would hope that this law does not result in many of our young children going to jail or RYC or whatever, the case would be, because that would be very grave for a society because when they come out, they come out as hardened criminals. This is my point, Mr Speaker, Sir, concerning the age of criminal responsibility.

Now, Mr Speaker, Sir, we pass laws every day, every week in this House, and if we look at the laws that we pass, a bit like hon. Juman said before, we would be the Paradise Island, we would be the best island in the world because so many laws which are not applied, so many laws which are not respected, look at our country as a whole. So, Mr Speaker, Sir, beyond the law, we must look at the track record of the Ministry. We must look at how this Minister and the previous Ministers under the same Prime Minister, have performed their duties, have actually put their actions where the words are, if I may say so in that manner, and when I look at this Ministry, Mr Speaker, Sir, and you know, it is very difficult to obtain information. I will come later on with a suggestion that we should have a Child Observatory Report because it is very hard to get information about even how many Child Protection Officers there are, because I called the Ministry, they refused to give me the information. It is as if secret. I will come to that in a moment.

But when I look at the Ministry and the information that I have at my disposal, I see, Mr Speaker, Sir, that last year, 2018-19, the Child Protection and Welfare Department for which the CDU is, in fact, part of, it is not short of funds. That Department was given Rs160 m. in 2018-19, and do you know how many millions of the rupees they returned to the Treasury and did not spend? Rs30 m. was returned to the Treasury and was not spent! Hon. Juman was talking about lack of transport facilities, no car or something to take the child. It is not because they did not have money, because they returned Rs30 m. to the Treasury. Whatever reason the Ministry will

give for not doing something, it cannot be because of lack of money because they returned one third almost of their budget unspent. What does that mean? That means, Mr Speaker, Sir, that there is no energy in the Ministry, there is no competence to put projects into effect; there is no will, maybe, even. Things are just left as they are. And so, Mr Speaker, Sir, this Ministry's projects/plans have remained in the drawer and money has been returned to the Treasury, and no Ministry should do that. Whereas previous speakers have spoken, there have been so many shortcomings, so many tragedies, people have died, people have been beaten, children have been beaten; children have suffered, and yet, money has been returned as if it was too much of a trouble to spend that money - we don't want to spend that money, take it back, we are tired, we don't want to do anymore effort. So, this is the impression that is given when a Ministry returns one third of a Department's budget back to the Treasury.

Now, Mr Speaker, Sir, there is a human resource issue at that Ministry. It has suffered over the years from chronic staff shortages and when you look at the figures, you will see that for the Family Welfare and Protection Officers, both for child and woman, 35% of the posts are vacant. They have so many posts they are allowed to hire, more than one third is vacant, and yet, you see that women are suffering, children are suffering. Let's look, Mr Speaker, Sir, at the child section itself. For the Child Care workers, the Ministry has on its Establishment, 16 posts, 16 funded positions as they say. Not even half were filled; only 7 officers were working as Child Care Officers, Mr Speaker, Sir, in the last financial year. What does that mean? The Child Care Officers are the people that are supposed to give help and assistance to the Family Welfare and Protection Officers and they are just not there. And you know, the Minister herself said that there are 6,000 new cases every year, 6,000 cases adding to thousands upon thousands of existing cases, and yet, she is so short of staff at the Ministry. But worse than actually being short of staff is that none of the staff are given any training whatsoever; you join as a Family Welfare and Protection Officer, you join as a Child Care Officer and they put you on the job the next day, go on, *déboullé, faire comment capav*. And that is a Ministry in the Government of Mauritius in the year 2020 dealing with children, no training whatsoever, whatever training you may get at University, whatever training you may have got as a diploma or as HSC, that is what you take and you bring to the Ministry, because they give no training. A Police officer, at least, gets six months' training, it's inadequate, but, at least, he gets six months' training. Here, no

training is given to these poor people; no transport is given, they have to wait for the car, God knows from Port Louis to come and fetch them when they need to go on-site.

Mr Speaker, Sir, what I would say is more than quantity, it is quality of human resource that is necessary: training, motivation, equipment, organisation and financial reward. Now, why can't the Ministry attract people? Because it is a very badly paid job! You have a degree, you start work as a Family Welfare and Protection Officer and do you know how much you earn, Mr Speaker, Sir? You are paid Rs17,000, with your degree. If you are a Child Care Officer, it is Rs13,000. Think of the trouble you have of the stressful job, you are given no training, and yet, you are paid a small amount of money and this is why the question of human resources, of recruitment, as was raised earlier, Mr Speaker, Sir, is important. We do need to have the right people in the Ministry. The law will be useless, the law will serve nothing, it will just be a beautifully written piece of legislation where there will be no action if the Minister does not look the issues in her Ministry. Up to now, she has not done so. Let's hope that she does so. Because, Mr Speaker, Sir, worst of all, knowing that this Bill is coming to this House, and when you look at the Budget Estimates of her Ministry, the last one which was recently voted, you will see that as far as manning of her Ministry is concerned, she is supposed to have a substantial reduction in staff. I don't know if you have taken cognizance of this, Madam Minister, because, when you look at the number of Family Welfare and Protection Officers that you have at the moment, in terms of funding positions, what is the number, 70. And if you look for next year, what will be the number? 57! So, do you get us to vote a comprehensive Bill and you reduce the staff at your Ministry? Where is the logic in that? Enforcement Officers, same reduction! Child Care Workers, there was supposed to be 16, I said they were about half, and next year, it will only be 7. I can't understand this. So, let's hope that the Minister answers and that she will tell us that she will go back to the Ministry of Finance and tell them to scrap this piece of paper; it is absolute rubbish. Everybody knew that the law was coming and provision should have been made for the staffing of the Ministry. There is no way she can increase her staffing without the Ministry of Finance giving her the funded positions and that will be the next Budget. So, let's hope that she does that, otherwise they will be fooling all of us, and I am sure that is not her intention.

Mr Speaker, Sir, at the same time, I have taken note that she is going to go back to the Pay Research Bureau to introduce the shift system, etc. So, you can imagine, if you get these

people reduced, the numbers as they are to work in three shifts, I mean, you hardly have anyone working at any time of the day. So, let's see what happens and, at the same time, they need to be given appropriate pay, they need to be given transport, they need to be given appropriate conditions to do an extremely difficult job. As she said herself, this is one of the most important pieces of legislation that is coming to this House, and it is coming to the House almost naked because there is nothing at the back of it to put it into practice. Let's see what happens.

Mr Speaker, Sir, I believe that legislation is one thing, putting in practice is the more important thing, so let's see how we get this into practice. Now, speaking of practice, I like the section 'on the best interest of the child'; it is an important section. Section 47 - Promoting the best interest of the Child! And what are you supposed to do? You are supposed to respect, protect and promote the best interest of the child. But during confinement - I will come to this point as it is a very important point - I will say the Ministry of Housing destroyed the houses of some one hundred people and they were put out violently into the street - at that point in time we were all confined, only police officers were not confined - these poor people find themselves *en plein air*, and they are still there, many, many families are still in Riambel and Pointe aux Sables. And, Mr Speaker, Sir, when we destroyed the houses - I don't blame the Minister, she was a new Minister, a few months after the election, I don't expect she would be able to stand up to the present Deputy Prime Minister, I don't expect that she would do that. But that does not mean, Mr Speaker, Sir, that she did not take her responsibility and provide the help and assistance once the houses had been destroyed. And, Mr Speaker, Sir, you may say that I am playing politics or something, so, I am going to quote, and I will table, according to Standing Orders, some cases. There is the case of Sandra and this article is in September, so a few weeks ago. *Sandra a quatre enfants âgés de trois ans, quatre ans, dix ans et quatorze ans. Celui de quatre ans souffre de crises d'asthme.* She and her family, their house was destroyed; she was put out *en plein air*, Mr Speaker, Sir.

Mr Speaker, Sir, I will tell you what Madeline Louis, a social worker, had to say. I am saying this because the Minister was conspicuously absent; her Ministry was conspicuously absent and did not give the protection that she should have done, according to what she is now voting herself, sections 4 and 5 of the Bill. Of course, she will say: 'we did, we did'. But if you ask anyone, they will tell you that the Ministry did nothing or next to nothing. And this is what Madeline Louis, a social worker, said -

« *Les enfants passent la nuit sur des matelas mouillés.* »

If she did do something, why is that the case ? *Un matelas mouillé!* So, *le résultat* was very, very bad. *Cela fait très mal au cœur*, says Madeline Louis. And I will take what Père Mongelard said –

“*Comment peut-on laisser souffrir des enfants de la sorte?*”

And, therefore, Mr Speaker, Sir, that is why I say that she has not done anything, at least, not done enough to fulfil her responsibilities, to fulfil what will be her legal obligation. Once the Children’s Bill will be passed and I assume it will be passed tonight or tomorrow. And what are we to tell them once this is passed? Are you going to rush there now and protect the children who are sleeping ‘*sur des matelas mouillés*’? A priest from the Catholic Church saying –

“*Comment peut-on laisser souffrir des enfants de la sorte?*”

So, there is a big problem in terms of inaction of the Ministry. And I will come, Mr Speaker, Sir, to this Coordinating Panel, because the Coordinating Panel has the advantage of being quite small, unlike what we had last week with the environment which had 40 to 50 people. But, Mr Speaker, Sir, it does not have anyone in that Coordinating Panel concerning housing. Nobody from the Ministry of Housing is on the Coordinating Panel and the role of the Coordinating Panel in the Bill is to coordinate everything to do with children. Let us assume that this problem still exists by next week, the Coordinating Panel do not have the Ministry of Housing. We know, Mr Speaker, Sir, that a lot of harm comes to children. Why? Because they live in close proximity to adults, young girls sleeping in the same room, perhaps the mother and the husband and whatever and things happen that should not happen. This is the truth, Mr Speaker, Sir. So, when we are talking about protecting the child, housing is an important Ministry to have on the Coordinating Panel. Also, Mr Speaker, Sir, the National Empowerment Foundation, we know its shortcomings. It should be – how can you provide, how can you protect the child, poor children we are talking mostly, we are not talking about middle-class children, we are mostly not talking about these people. We are talking about poor children and you don’t include the National Empowerment Foundation in the Coordinating Panel, only the Ministry of Social Security, which happens at today to take care of the NEP, but will not be the case probably tomorrow. So, this is an issue, Mr Speaker, Sir, that I am raising. I believe the Coordinating Panel should have the appropriate Ministries and organisations that are able to be sensitised and are able to take the appropriate action to remedy the situation.

Mr Speaker, Sir, I'll now come to adoption. In the original version of the Bill, if my memory serves me right, it had included a section on adoption. This section has been removed and we are now being promised, in the coming weeks, I think, I do not know when the Parliament would close, but I doubt it will come before the end of the year; so, we are talking about March, presumably, that there will be an Adoption Bill. Well, why didn't it come here, at this time it could have been debated together? Because, Mr Speaker, Sir, adoption and fostering are the basic solutions, not solutions, but palliative if we want, for children suffering and having to live, many on a long-term basis, in shelters; children that have been abandoned, children that are there on a long-term basis ought to be given the chance to live in a family. We all know that the only best place for a child to be is in a family environment where they will get the love, even if it is not their parents, they will get the love and affection, people to take care of them. That is, obviously, I think a major priority. I remember when we were in Government, we increased the allowance for fostering quite heavily, because I believe that we should encourage families to take on foster children – they are paid. A foster parent is not adopting the child, he is taking care of the child, and in return, I think, they get about Rs13,000 a month for feeding, clothing, etc., of the child and they give the love and affection to the child, at least, we hope so. That is a foster parent, Mr Speaker, Sir. And it is a very important palliative, not a solution to children in shelters, because who would like to live in a shelter? At the moment, in Grande Rivière, there are 48 children at least there. Who would like to live as a child in a place like this where you have 47 other children living with you? All, I think, would rather live in a family, fostering.

Now, if you look again, Mr Speaker, Sir, at the Ministry, they were supposed to give in foster care 14 children last year, it was supposed to move to 25 children this year and to 50 children next year. Now, I don't see any publicity, I don't see any advertisement anywhere relating to encouraging people to become foster parents. And that is wrong! They have money, as I mentioned, Rs30 m. was returned, why was not some of that money used to advertise for foster parents? And, Mr Speaker, Sir, as I said, I would like to have a Children Observatory Report. Because I have no information as to what is the performance of the Ministry and I think one of the orators from the Government said, in fact, that the Ministry should be accountable. I fully agree with that. It can only be accountable when information is published. It cannot be accountable when information is not published. So, it has to be transparent. So, how many

children has the Minister succeeded in putting in foster care over the last year will give us an indication of the performance of the Ministry for that year.

Similarly, adoption, Mr Speaker, Sir, I am in favour of adoption, obviously, as long as you find the right family who has the right intentions. But adoption is important. Would-be parents suffer because they have no children and the children suffer because they are in these shelters. So, adoption, if it is done in the right way and for the right reasons, is an important palliative and solution to children abandoned in shelters, Mr Speaker, Sir. Now, the Adoption Bill has not come with this batch of Bills. Let us hope that it will really come soon. But maybe I would like to make a suggestion to the Minister, it costs money to adopt a child not only because you have to pay for their upkeep, but just for the act of adoption, an Attorney will charge you about Rs25,000 to Rs30,000. Maybe if you go to a top Attorney, it will go up to Rs100,000 I don't know. So, it is expensive just to carry out the act of adopting. I would suggest to the Minister - because it is in the interest of the State, in the interest of the child to have adoption in the right families - that this should be free, that the CDU should pay, why not, those legal fees so that when you are a family, you want to adopt and maybe you cannot afford the Rs30,000, Rs40,000, Rs50,000 that it will cost to pay an Attorney, that this should be taken care of by the State. That might be a way of getting more would-be parents engaged in adoption, of course, with all the right safeguards, all the right parameters in place for this to happen because my wish would be to have as few children as possible in long-term residential care in the shelters and as many as possible in foster homes and adopted, Mr Speaker, Sir.

So, let us have some figures, perhaps the Minister can give us in the summing-up. There are hundreds of children in shelters, how many actually have been able to leave the shelter for foster care? Also, Mr Speaker, Sir, in the best interest of the child, there should be as many crèches as possible opened all over the island for disadvantaged families. As they say, if you open a crèche, you close a prison because you are giving the child the right education and the right treatment, if that is the word, right from a very early age for him to become a responsible citizen. I regret, Mr Speaker, Sir, that so many of the crèches that were opened, that I opened myself, have been closed down, like this Vallijee crèche, like the Cité La Cure crèche and I hope, Mr Speaker, Sir, that in this coordinating committee that this can be looked at and this could be redressed, Mr Speaker, Sir.

We talked about very young children; I will come now to the child that is not coming to a child in a moment because he is going to be 18. He is going to be 18 and he cannot just be put out in the street. Once he is 18, he is gone. The State does not want to know about him. He is out on his own. Now, that child may not have finished his school. He is still a child even if he is 18. That child may not have got a job. That person may still be at University, let us hope he is at University and the State will not have anything to do with him and that is a major flaw of this Bill. It does not talk about halfway houses. People who have been 18 but still not able to take care of themselves financially or even emotionally after that age, and that is wrong. Even the mentoring service, Mr Speaker, Sir, stops at the age of 16. Why does it stop at the age of 16? If I was 18, they kick me out of their house, I would love to have a mentor maybe to help me find a job, maybe to help me find psychological help, maybe to help me find a home. But at the age of 16, mentor services are no longer provided by the State and that, Mr Speaker, Sir, is wrong because then, it is a recipe for disaster. Kicking the person out of the shelter, giving him no help will lead to all the social ills that we know of, the drugs, the alcohol, the prostitution whatever horrible things may come the way of this child.

Mr Speaker, Sir, before I finish, I would say also that this halfway home, these mentoring services could have been provided by the wonderful NGOs that we have in this country, and I would like to thank all. I would like to thank the civil servants too, but also the wonderful people working in the NGOs. But, Mr Speaker, Sir, what this Government has done to Corporate Social Responsibility (CSR)? They have tried to destroy the voluntary sector. It is all now State controlled. It is like a tax, you pay the tax to the MRA, the MRA gives it to the National Empowerment Foundation which is not on the New Coordinating Committee and that money, the NEF and the CSR foundation, is given to some people. How, nobody is quite sure. But, Mr Speaker, Sir, returning the CSR back to what it was, will be fantastic and would encourage the voluntary sector.

So, to finish, Mr Speaker, Sir, let us look at the Sex Offender Register. I listened to hon. Balgobin, the Minister of Information, Technology, Communication and Innovation. If you look at the Child Sex Offender Register Bill, it is as if a Bill that could have been written at the time of independence, 1968, because there is no talk on that Bill at all of technology. Nothing on technology! Internet of things, when with a simple chip you can know wherever someone is, where you give an electronic bracelet to someone and you can control wherever he is in

Mauritius. This exists, but the law does not care about that. The law only looks at a register, maybe a digital register whereas technology could be used to protect our children in a much more efficacious way than having a register and someone having to go to the Police Station now and then. And it is not difficult now; NSS can trace us all because of our telephone where we are today as we speak. And so the Ministry takes a leaf from the book of the NSS, kept these sex offenders to wear these bracelets and you would know exactly where they were, whether they are approaching a school, whether they are approaching a nursery and they can be, Mr Speaker, Sir, taken to task wherever. So, let us have a law that reflects the state of technology in the age that we are in, in 2020 and I will finish with this. It was hon. Balgobin himself who had said the Ministry should be accountable. We just had the Drug Observatory Report, it was two years late, but we got it a few days ago. We need a document on the children suffering in this country. That is why I would say we need a Children Observatory Report. That will provide statistical information about children, how many have gone into fostering, adoption; how many children do we have in shelters; which ones are overloaded with children; what about the crime statistics; how many are there in reform institutions; how many have been assaulted, have been abused; are things getting better; are things getting worse; how many complaints have the Ministry received over the year; how many of these have been responded to within such and such time; how many have not been and how many have not been resolved at all. These are issues that society and this House are entitled to get. We are a long way from the freedom of information from this Government. We are a long way from that. But we are entitled to more information about our children and, Mr Speaker, Sir, this is where I will stop.

I would hope that next time we talk about children we have decent information to be able to bring the Minister and the Government to account because that is our role in this House.

Thank you.

(6.33 p.m.)

The Vice-Prime Minister, Minister of Education, Tertiary Education, Science and Technology (Mrs L. D. Dookun-Luchoomun): M. le président, je suis heureuse de noter que généralement il y a consensus sur ces trois projets de loi. Je dois dire que j'étais agréablement surprise au départ quand j'ai écouté l'honorable Xavier-Luc Duval qui a débuté très bien en disant que, bien sûr, il accueillait ces projets de loi mais il a été tenté vers la fin, bien sûr, de tirer

un peu sur la chose politique. Je dois dire que quelques recommandations faites sont quand même assez valables. Je reviendrai là-dessus plus tard, M. le président.

M. le président, nous sommes en présence de trois projets de loi ayant pour but la protection de nos enfants dans un monde, nous sommes tous conscients, où les défis qu'ils font face évoluent rapidement et au quotidien, mais je voudrais aussi, dès le départ, énoncer, haut et fort, que le *Children's Bill*, le *Children's Court Bill* et le *Child Sex Offender Register Bill* ont déjà, avant même que les débats à cette auguste Assemblée ne soient clos, obtenu la reconnaissance, le soutien et l'approbation de la population mauricienne. En effet, le nombre d'articles de presse, d'opinions, de points de vue, des contributions qui ont été émis, autant au sein de cette Chambre qu'à l'extérieur, illustrent déjà l'intérêt profond sur le sujet et c'est très bien ainsi.

Yes, Mr Speaker, Sir, this is quite fitting, given that the very purpose of a Bill to get into the public domain is to generate a panoply of inputs from stakeholders and from concerned citizens.

Mr Speaker, Sir, allow me now to congratulate hon. Mrs Kalpana Koonjoo-Shah for having, as soon as she took office, set to task to bring these Bills expeditiously to the House. I would also like to thank her predecessor, hon. Mrs Jeewa-Daureeawoo for her active contribution to these Bills.

Mr Speaker, Sir, it is important to have a wide range of views on this Bill and it is fitting, given that it is important to generate the inputs from stakeholders, even from *le citoyen lambda*. But what I found also interesting is that with the number of inputs we had, we could feel the unanimity about our common concern, our common solicitude for the child.

The Bill, Mr Speaker, Sir, sets the tone right from the outset to make it very clear that what run as a leitmotiv in it, what primes over the above and above anything else is the best interests principles.

“4. Best interests principles

- (1) The best interests of a child shall, in respect of any matter concerning the child, be paramount and be the primary consideration by any person, Court, institution or other body.”

In fact, Mr Speaker, Sir, this is the thread that links everything together, the structures and services to be set up, the policy decisions to be implemented that relate to the minimum age of marriage and to its criminal responsibility, amongst others. Mr Speaker, Sir, all seek to safeguard the interests of the child and to keep the interest of the child uppermost, empowerment is key. We are stating that we will take all required actions to prevent the violation of the rights of the child and, at the same time, we are saying that our actionable policies won't be one-sided. A young person's views count, he or she has to be given a prominent place at the table to eliminate any existing voice of poverty and that, Mr Speaker, Sir, is directly in line with the fundamental enunciations of the United Nations Convention on the Rights of the Child as well as the African Charter on the Rights and Welfare of the Child.

Mr Speaker, Sir, there has since long been a concern about the rights of children, both locally and internationally and the concern is growing by the year in the face of the fast pace mutation, the inexorable changes the world has been going through and the way is, so far, unheard of transformations have been impacting children due to their vulnerability.

M. le président, the International Labour Organisation has stated that more than 150 million children aged 5 to 17, half of them under 11 are victims of forced labour and they thus miss education. Around 12 million girls are married before the age of 18 and we can all guess the telling consequences on their health and education. I would like to highlight here, Mr Speaker, Sir, the words of the NGO, Girls Not Brides -

“About child marriage – Girls Not Brides

“Child marriage violates rights to health, education and opportunity. It exposes girls to violence throughout their lives, and traps them in a cycle of poverty.”

Mr Speaker, Sir, today, is the International Day for Persons with Disabilities, and we know that persons with disabilities are less likely to attend schools; they are more likely to be out of schools, they are less likely to complete primary and secondary education and they are therefore less likely to acquire the basic literacy skills. *M. le président*, the world has woken up to the reality that something needs to be done to overcome these conditions that hamstringing humanities development, *et là*, *M. le président*, l'UNICEF *s'est rendu compte de cela* et the global social economic crisis caused by the COVID-19 pandemic has led UNICEF to structure

its work around five overarching areas that relate to the wellbeing for every child. These areas are -

1. Every child survives and strives;
2. Every child learns;
3. Every child is protected from violence and exploitation;
4. Every child lives in a safe and clean environment, and
5. Every child has a fair chance in life.

Mr Speaker, Sir, does this not ring a bell in our minds? Isn't it interesting to note that these areas are all well captured by the Bills set out before the House? Mr Speaker, Sir, it is only legitimate that it should be so, Mauritius has a lot of catch up to do since the Child Protection Act of 1994. In the face of new realities, we cannot sit on our hands or patiently wait in the trenches for the manna to fall from the heaven. The Mauritian child cannot wait.

M. Kofi Annan, l'ancien Secrétaire général des Nations Unies l'avait bien souligné: « To live is to choose. » And our Government, Mr Speaker, Sir, has chosen to put its feet in the stirrups to spur on the concrete actions as a protective gesture for children. Mr Speaker, Sir, Government can best force up such a role by coming up with the right kind of legislation. The three Bills before us capture some of the fundamentals that should logically be at the heart of matters pertaining to children's rights, their protection and safety as well as a guarantee of the safeguard of their rights, but legislations, Mr Speaker, Sir, become effective when mechanisms are in place, when spaces provided for mechanisms for institutions to operate with a degree of efficiency and effectiveness.

Mr Speaker, Sir, to come back to what the hon. Member was saying just before me, allow me to refer to the Child Services Coordinating Panel. As is clearly stated in clause 1 of the subpart (b), this Panel shall be responsible for the coordination - and I stress on this word, Mr Speaker, Sir, 'coordination' - of all activities relating to the implementation of this Act as well as the UNCRC and the African Charter on the Rights and Welfare of the Child.

Mr Speaker, Sir, the functions of this panel are clearly stated at clause 2 and I will not take the time of the Assembly to read out and discuss each of them, they are clear enough, but

there is one doubt that I need to dispel. It is being said that the work of the Panel overlaps with the roles and functions of the Office of the Ombudsperson for Children.

Mr Speaker, Sir, a careful reading will indicate that this is really not the case. The Office of the Ombudsperson for Children has primarily an advisory role but without any executive power. It has a duty to keep institutions abreast of certain actions that negatively impact the lives of children such that redress at their level becomes effective. In short, the Office safeguards the interests of the child while the Child Service Coordinating Panel's role, on the other hand, goes beyond that. It links up with the Ministry that has executive power unless we forget, it has a distinct role in that it will keep tabs on and reports the action undertaken in the fulfilment of our commitment *vis-à-vis* the UNCRC and the ACRWC.

In fact, this Panel ascertains that the proposed actions to be undertaken are in the interests of the children and accordingly, will see to it that all decisions taken by stakeholders get to be implemented.

M. le président, some people also mentioned that the Panel will be duplicating the role of the CDU. This is far from the case. The CDU will, in fact, be implementing recommendations made by the Panel and is duty bound to report to the Panel on any action taken and the reasons behind taking partial or no action.

Mr Speaker, Sir, all agencies must work collaboratively with common objective of putting the interests of the child in the forefront, and it is in this spirit, Mr Speaker, Sir, that this Panel has been constituted and will operate.

Je tiens à réitérer qu'on se doit d'insister sur le fait que la protection des enfants exige une approche multisectorielle et, de ce fait, ce Panel a un rôle extrêmement important à jouer.

Mr Speaker, Sir, the function of both - whether it's the Panel or the CDU - are thus quite distinct.

Mr Speaker, Sir, we need to protect our children especially in the light of the new reality that has emerged. And what are the new realities today? Where does the child situate itself today? What are the new fungal risks he or she is more exposed to today?

Mr Speaker, Sir, when we look at Part III, Sub-Part A of the Children's Bill, it has the merit of listing in quite an exhausting manner from clause 11 to clause 28, a whole new slew of

offences against children. These range from discrimination to abandonment, to mendacity, to child grooming with a lot of other offences in-between.

Mr Speaker, Sir, child abuse is a very serious issue.

M. le président, *child abuse* peut prendre plusieurs formes : l'intimidation, la violence physique, l'abus sexuel, le harcèlement, la pression mentale et émotionnelle entre autres.

Mr Speaker, Sir, a lot has been written and lot of research has been done about the causes and reasons behind child abuse within the family. The existing literature is repeat with one persistent fact, people who have themselves been abused as children tend as adults to replicate that behaviour towards their own children.

Et cela passe, M. le président, malheureusement dans tous les couches sociales.

M. le président, on tient souvent à oublier que la maltraitance entraîne des souffrances pour les enfants et même leurs familles et ont des conséquences néfastes à court comme à long terme.

M. le président, j'ai entendu avec beaucoup d'intérêts l'intervention de l'honorable Duval. C'est vrai, personne ne voudrait prendre un enfant de chez lui et le mettre ailleurs dans un *shelter* ou dans une autre *place of safety*. Mais il nous faut nous rendre compte que, quelquefois, nous n'avons d'autres alternatives et qu'il nous faut bien sûr protéger l'enfant. Nous voulons nous donner les moyens pour rendre ce transfert le plus adéquat possible mais quelquefois nous sommes devant des faits, devant des réalités où il nous faut, à tout prix, prendre l'enfant.

Je voudrais, M. le président, ne serait-ce que pour un court instant, demander à ce qu'on imagine ce que ressent un enfant qui est malmené que ce soit verbalement, un enfant qui est insulté, qui se sent diminué, qui est dénigré en présence d'autres personnes ou même des amis.

M. le président, pouvez-vous imaginer le coup dur que cela porte à son estime de soi, sa confiance en soi et sa dignité? Les enfants maltraités, devenus adultes, sont souvent exposés à divers troupes comportementaux, physiques ou psychiques. Et, c'est par cela que mon ministère, depuis trois ans, a mis sur pied un *Health and Wellness Directorate* et a ainsi élaboré un programme d'*emotional and social well-being of the learner*. On a aussi mis sur pied un *National Educational Counselling Service* qui prend en charge les enfants démontrant des troubles de comportements.

M. le président, la maltraitance a des répercussions énormes sur la société certes mais aussi sur la santé de ces enfants. Et ces projets de loi, M. le président, si essentiels au bien-être des enfants, tiennent en compte leur vulnérabilité et leurs besoins spécifiques.

M. le président, il y a aussi la responsabilité parentale. De plus en plus on se rend compte que les parents devraient, plus que jamais, être appelés à être des rôles modèles pour leur enfant. En affichant un comportement moral et éthique, les parents peuvent également transmettre des valeurs qui peuvent contrer les influences négatives que les enfants peuvent recevoir de leurs pairs ou des médias.

M. le président, beaucoup a été dit sur ces trois projets de loi au sein de ce Parlement. Je compte aborder quelques petits points ; le premier étant l'âge du mariage à 18 ans.

M. le président, notre République a franchi ici une étape importante de son histoire car désormais, nos enfants seront en mesure de mieux prendre leur destin en main ; cela à un âge où ils auront atteint un degré de maturité et en mesure de réaliser pleinement leur sens de responsabilité surtout quand on parle du mariage.

M. le président, vous conviendrez que le mariage est un acte d'engagement entre deux personnes. C'est la base même de la fondation de la famille. Il est impératif que nos jeunes aient tous l'opportunité de vivre leur enfance, leur adolescence, leur vie à l'école, leur parcours académique et surtout connaître des moments privilégiés au sein de la cellule familiale tout en atteignant l'âge adulte avant de s'engager dans une relation menant au mariage.

Mr Speaker, Sir, I would like, at this stage, to highlight the words of the NGO, this charity – “Girls Not Brides” which go thus ‘child marriage violates girls’ rights to health, education and opportunity. It exposes girls to violence throughout their lives, and traps them in a cycle of poverty’.

M. le président, combien de fois nous avons vu, dans la presse, des cas de jeunes filles qui ont eu des fins horribles quelquefois parce qu'elles ont été forcées dans des mariages qu'elles n'étaient même pas prêtes à assumer? Il y a eu, M. le président, des cas de fille-mère, il y a eu des cas de *child bearing a child*, des jeunes et je crois que la ministre Koonjoo-Shah, de par cette législation, a marqué l'histoire et, comme je l'ai dit avant, nous avons traversé une nouvelle étape de notre histoire.

M. le président, venant sur l'âge de la responsabilité pénale qui passe à 14 ans. Il est vrai que ce n'est pas facile de déterminer l'âge approprié pour cela mais il serait bon de faire ressortir que cela dépend du contexte dans lequel nous vivons. Si en Suisse, au Royaume-Uni et en Australie, l'âge de la responsabilité pénale est à 10 ans, dans d'autres pays, il varie entre 12 à 16 ans. Il nous faut surtout réfléchir comment aider les enfants qui ont fait des délits. Alors là, je voudrais surtout faire ressortir que la législation prévoit que le *DPP* a le pouvoir de revoir ou d'arrêter une poursuite et d'avoir recours à la déjudiciarisation si le cas s'avère être nécessaire.

Then, Mr Speaker, Sir, the juvenile may be enrolled in a diversion programme rather than being prosecuted or having criminal proceedings instituted against him. However, Mr Speaker, Sir, we need to acknowledge that in spite of the fact that we are all aware that a child at this age is still developing and that most probably his sense of reasoning may not be at its optimum stage, yet, Mr Speaker, Sir, we need to acknowledge that it would not be in the interest of the child not to have any criminal proceedings against him because of his age.

Mr Speaker, Sir, we need to drive home the necessity for him to adopt a changed behavioural pattern for his own good. We believe that at 14 the juvenile is more aware and can recognise enormity reaction but it is still early enough to go for intervention actions to prevent and circumvent further and future offences. Of course, Mr Speaker, Sir, rehabilitative measures will provide the necessary *encadrement* we hope.

On the other hand, we must also realise that children have to be protected from themselves because of their innocence, their *naïveté*, their ignorance at times.

M. le président, je fais ici référence aux médias, the pernicious effects of social media on young impressionable minds. Who has not heard of the several cases of self-mutilation, of laceration being carried out by a few young persons inspired by lyrics of Marilyn Manson or the choking game that went viral at one time and what about the repercussions of fake news via the net? Mr Speaker, Sir, I do believe that in the future maybe we need to encompass this aspect as well in our legislations.

And, Mr Speaker, Sir, talking about the Children's Court, c'est clair que *the Children's Court will come with two separate Divisions, the Protection Division and the Criminal Division, and the Children's Court Bill will come and will allow the institution of a special Court for children*, adaptée aux enfants. L'enfant, que ce soit en tant que victime ou de témoin, n'aura pas

à se retrouver en face quelquefois d'un agresseur et il pourra aussi mieux s'exprimer devant le juge sans crainte aucune que ce soit, comme je l'ai dit, en tant que victime ou en tant que témoin. L'environnement *child-friendly* de la cour devrait aider énormément et éviterait le trauma que les jeunes subissent en allant à la cour. Mais, M. le président, c'est vrai qu'il y a un gros travail à être effectué en terme de formation, formation des cadres, du personnel du judiciaire afin qu'il développe l'approche voulue vis-à-vis de ces jeunes que ce soit victime ou témoin. Il y a un gros travail à être effectué dans ce sens et certainement nous pensons que cela devra être fait d'une façon professionnelle et rapide.

M. le président, ces trois projets de loi viennent plus que jamais combler une lacune longtemps décriée au sein de notre système. Je ne pourrai, ici, ne pas exprimer les pensées spéciales que j'ai pour le petit Ayaan et pour tous les enfants innocents victimes de violences. Les chiffres officiels avancés par la ministre, l'honorable Kalpana Koonjoo-Shah nous donnent froid dans le dos, entre 5,000 à 6,000 cas allégués de violence envers les enfants sont rapportés chaque année au ministère de tutelle. Et rien que pour les neuf premiers mois de cette année, on est en présence de 382 cas allégués d'abus sexuel sur les enfants. M. le président, aucun d'entre eux ne méritait pourtant un tel sort. Un cas reste un cas de trop. Il faut agir.

M. le président, le *register* pour des *offenders*, *Child Sex Offender Register* est un pas en avant. C'est vrai que nous allons pouvoir mieux cerner ces gens. Le *monitoring* pourrait être fait et de ce fait, cela permettra de mieux protéger nos enfants, d'identifier les jeunes qui sont à risque et les protéger mais je crois que c'est vrai, dans l'avenir il va falloir que nous trouvions des moyens peut-être modernes et sophistiqués qui permettraient à mieux suivre ces gens, les bracelets électroniques sont peut-être des choses qu'on pourrait envisager dans le futur mais ce qui est aussi important, avec le cas d'Ayaan, nous sommes rendus compte qu'il y a d'autres formes de violences qui peuvent être extrêmement graves et dangereux et peut-être à l'avenir il nous faudra aussi avoir un registre de ceux qui maltraitent les enfants et qui agissent de manière violent vis-à-vis des enfants. Ce sont des choses que nous devons considérer dans le futur.

M. le président, je disais tout à l'heure que la protection des enfants devrait suivre l'approche multisectorielle et de ce fait le secteur éducatif a un rôle extrêmement important à jouer. Je disais tout à l'heure aussi que nous avons des unités au sein du ministère, le *Health and Wellness Directorate*, nous avons parlé aussi du *National Counselling Unit*. M. le président, nous

avons introduit dans nos écoles des programmes, tels que la gestion des émotions, l'éducation à la sexualité. Nous apprenons aux enfants comment gérer leurs émotions, que ce soit la tristesse, la joie, la colère, la frustration, voire même la perte d'un proche et cela afin qu'ils apprennent à mieux se connaître et mieux se prendre en main.

M. le président, tout cela est extrêmement important mais il nous faut aussi prendre le temps pour la formation des enseignants, pour qu'ils puissent eux aussi identifier les élèves, les enfants qui ont des problèmes, les enfants qui ont besoin de notre protection.

M. le président, il y a tant de choses que nous devons garder en tête. Ces trois projets de loi viennent aujourd'hui mieux protéger nos enfants. Certainement il y aura beaucoup d'autres structures à mettre en place et les structures qui seront mises en place pourront mieux aider à cerner le problème de la protection des enfants.

Permettez-moi, M. le président, que je termine avec ces quelques mots. Ces projets de loi présentés à l'Assemblée nationale viennent compléter toute la démarche existante qui vise à faire de nos enfants des jeunes adultes de demain, respectueux des droits de leurs pairs et je dois ici féliciter encore une fois l'honorable Kalpana Koonjoo-Shah, de même que l'honorable Fazila Jeewa-Daureeawoo qui se sont retroussées les manches afin d'abattre un travail colossal et nous menant aujourd'hui à ces trois projets de loi. Et nous sommes fiers de pouvoir entamer la présente décennie sous de meilleurs augures en ce qu'il s'agit de la protection de nos enfants et je suis certaine que ce sentiment est partagé des deux côtés de la Chambre. Notre République, M. le président, disposera désormais d'un cadre légal approprié qui s'adresse de manière ferme aux crimes commis contre les enfants et ceci en ligne avec les attentes de notre société. Nous, M. le président, de ce côté de la Chambre, nous croyons fermement que le développement des enfants passe par la protection et cela est crucial pour l'avenir de notre société et nous continuerons à œuvrer en ce sens.

Merci M. le président.

Mr P. Ramchurrin (Third Member for Savanne & Black River): *Merci, M. le président.*

Mr Speaker, Sir, it is a pleasure indeed to rise and speak on the most important Bills brought to this House tonight, the Children's Bill, the Children's Court Bill and the Child Sex

Offender Register Bill. I commend my colleague the hon. Mrs Koonjoo-Shah, Minister of Gender Equality and Family Welfare for her bold initiative in presenting the three legislations today.

Mr Speaker, Sir, I am also happy to hear from hon. Xavier-Luc Duval that this Bill was mentioned seven years before by the then hon. Mrs Mireille Martin. I commend to hear from hon. Xavier-Luc Duval, the leader of the PMSD, that the Bill is welcomed by the Opposition even if it was mentioned seven years ago. Today, this Bill is welcomed by the House and is presented by the hon. Mrs Koonjoo-Shah.

Mr Speaker, Sir, under the firm stewardship of the hon. Prime Minister, the Children's Bill has been a clear priority since we took the rein of power and I am very humble to be able to participate in the debates on legislations which will ensure the safety and well-being of future generations. I thank Members from both sides of the House for their interventions, who encourage constructive, objective and positive debates by putting our children at the very heart of our interventions.

Mr Speaker, Sir, before I delve into the details of the Bill, I would like to acknowledge all the organisations, stakeholders and officials of the Ministry who have worked, and are still working tirelessly and collaboratively to resolve issues alongside the victims. Mr Speaker, Sir, through the legislations being presented today, the Government has demonstrated its firm commitment in acting boldly and safely to essentially prevent and protect children against any form of violence, be it physical or psychological, by ensuring that perpetrators are made accountable for their dreadful behaviours.

These Bills, Mr Speaker, Sir, are building up on the Government's track record and places around tackling any form of violence or abuse towards the most vulnerable groups of our society, namely children, women, our elderly and individuals suffering from a disability. I also seize the opportunity to congratulate hon. Mrs Jeewa-Daureeawoo for announcing the upcoming Disability Bill as well as for her incalculable contribution in laying the solid foundations to the three Bills being presented today. As the hon. Minister pointed out, we are dealing with an increasing number of incidents and such tough legislations will prove to be a definite bold deterrent against such violence towards those children.

Mr Speaker, Sir, the Bills, undoubtedly, provide more protection for children who are victims of violence but, more importantly, it is specifically through the Children's Court Bill, ensuring that Courts can manage concurrent proceedings, involving children and that there are no administrative barriers inappropriately and swiftly dealing with the cases. Through the Bills, once an incident has occurred the need of the children is quickly and smoothly taken care of by ensuring that the child is not dragged down through more traumatic administrative procedures. The proposed legislations will also ensure that Courts can now act to protect children and their families from any sort of violence and also caters for the prevention and condemnation of any act of child trafficking within our territory.

Mr Speaker, Sir, for far too long in this country many children have been hiding in fear in a corner of their house after having been a victim or having witnessed of violent incident which has gone unchecked. These, Mr Speaker, Sir, will have to be stopped and the Bills presented will be a strong deterrent. Mr Speaker, Sir, the stakes are extremely high; I cannot fail to address the increasing incidents as well as the evolving types of violence and crimes against our children. The cost of not succeeding is too high as it would be contributing as a society the creation of another generation of victims and perpetrators. Hence, the focus has been and will be on making a success in the implementation of the proposed legislations, as well as being aware and ahead of the curve by making adjustments and enhancements once identified and wherever needed. The approach, as I mentioned, is both preventive and correctional. Hence, the Children's Bill will put in place a set of solid preventive mechanisms while the Children's Court Bill and the Child Sex Offender Register Bill will tackle the correctional side of the offence.

Mr Speaker, Sir, prevention will always be the best solution and families must be supported as soon as possible with evidence-based services and programmes that are targeted to their needs. However, an unfortunate and sad reality across the world is that, in spite of strong child protection systems, tragedies will occur. These tragedies, though increasing, are rapidly evolving and becoming more horrible, which reflect the worsening of the social fabric and levels of tolerance within families. Mr Speaker, Sir, the recent cases of child violence and abuse, which have been in the news, have been heart-wrenching. However, a noteworthy point has been that perpetrators of the acts of violence have been none other than one or both of the parents.

Children are gifts and they should be given every chance to live their lives, play, learn and be happy. No child should go through a tragic childhood. Mr Speaker, Sir, hence, the sense of responsibility of some parents should be severely questioned. As rightly mentioned by Sir Anerood Jugnauth in one of his speeches in 1988, I quote –

“Some parents do whatever they want with their child and the child is at their mercy and it is true that there are children who hardly find any time to play. They do not know the meaning of play. They have been, so to say, sequestered, imprisoned and this is naturally wrong for the normal development of a child.”

Mr Speaker, Sir, many parents out there should really ponder on their parenthood and how they are treating their own blood. We are policymakers and legislators can pass most stringent laws one can imagine, however, the ultimate responsibility lies on the parent or guardian who is not thinking before hurting or abusing the child. I commend the hon. Minister for her hard work, scholarship and in delivering this Bill. I am sure she will come through it with other such holistically legislations to tackle the question of *concubinage*, as I agree with her that it is too serious of an issue and should have a full-fledged legislation.

Mr Speaker, Sir, as for any Bill being presented, there is always room for improvement following the implementation and assessments of the provisions. The hon. Minister will be the first person to present any amendments to enhance the legislative framework. On this side of the House, we always try to use the positive lens while looking at the state of things for improvements have to be undertaken it is done in a swift manner. Hence, I was expecting the same positive outlook from some Members of the other side especially the flame bearers on the issue and of children and women protection. I was truly disappointed because the doors of negativity outweighed the appreciation of proposed legislation itself.

Hon. Ms Anquetil, for instance, after her introductory remarks, chose to directly enumerate a long list of shortcomings followed by her proposals which might be valid for her. However, I fail to see any firm appreciation into the strengthened legislations as well as the new ideas introduced to protect our children. Hon. Ms Anquetil, since the beginning of this session of the National Assembly, has used her apparently very extensive network to table pertinent questions and intervene on every Bill on the topics of gender equality and family welfare, and I salute her for that. Her research and networks have proved informative but maybe, unfortunately,

failed to provide any positive comments on this Bill even if the majority of social workers, NGOs and all the stakeholders have positively welcome the Bill.

Mr Speaker, Sir, with regard to the MMM and its Leader, back in September 2019, they asserted that they were agreeable to an extent of only 95% with the then draft of the Children's Bill. I wonder why they could not afford to be 100% agreeable as maybe it would have been too costly politically for them to agree that the Government is doing a good job.

Mr Speaker, Sir, as we know very well the glass can be half-empty or half-full; however, for some even if the glass was full to the brim, they would find a shortcoming or a problem. For instance, the glass was not, perhaps, big enough.

Mr Speaker, Sir, if one does not agree on a point, they will make it a point to find a reason not to agree. Indeed, it seems that their approach is to make a decision first and then find a reason to back the decision. Mr Speaker, Sir, in this side of the House, we are putting our children first and not politics like the Labour Party and the MMM have done. Under the leadership of our hon. Prime Minister, we promise that we will keep the same philosophy.

To conclude, Mr Speaker, Sir, the ultimate aim of the legislations is to ensure that the violence against our children is prevented and severely punished. Government is sending a clear message that offences against children are horrible and unacceptable acts. I urge parents, once again, to be responsible in their actions and treat their children with love, care and affection.

Let me finish by quoting a line from one of the poems of Rabindranath Tagore, I quote –

“From the solemn gloom of the temple, children run out to sit in the dust, God watches them play and forgets the priest.”

Mr Speaker, Sir, God is watching us today, so let us, unanimously, vote this Bill to ensure that the children of God are happy, safe, healthy and have opportunities to contribute positive in the future.

I thank you, Mr Speaker, Sir.

(7.17 p.m.)

Mr R. Woochit (Third Member for Pamplemousses & Triolet): Mr Speaker, Sir, thank you for giving me the opportunity to contribute to the Children's Bill which represents an important milestone in the history of child development in our country.

This Bill, Mr Speaker, Sir, comes at a time where a number of ill-treatments and tortures against our children is on the rise and it is regretful that, in some recent cases, some of them have lost their lives. The latest case of child brutality against two-year old Ayaan has, indeed, shocked everyone in Mauritius. The new Children's Bill, therefore, finds all its importance in the present context but it should have come much earlier.

Mr Speaker, Sir, the progress of any society depends upon the well-being of its children. Our children are regarded as a hope for the family and for our country. Children are also considered as the foundation stone for the social economic development of a country. Our country can only progress when we provide our children with opportunities for their growth and development, both mentally and physically. Children, because of being at risk, need a special care and attention.

Mr Speaker, Sir, in 1989, the UN General Assembly adopted the Convention on the Rights of the Child (CRC) and Mauritius acceded to the Convention in 1990. According to Article 19 of the CRC, I quote –

“State parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.”

The Convention, therefore, holds binding forces and Mauritius has an obligation to translate the rights of the Convention into reality. The CRC has established clear principles and rights for the development and protection of the child and for the obligation of the parent and the State; it was a great departure in the fields of rights of the children.

Mr Speaker, Sir, the National Children Council (NCC) was set up in 1990. Its vision statement was to uphold the best interest of the Mauritian child in line with the Convention on the Rights of the Child and one of its missions was to ensure the welfare, development and

protection of the children. Unfortunately, I must say that, 30 years later, the increasing number of ill treatments and abuses against children suggests that the NCC has completely failed in its mission. We must recognise that, 30 years after the adoption of the UN Resolutions concerning rights and welfare of children, we have not been doing enough for their protection, upbringing and development.

Mr Speaker, Sir, in the Explanatory Memorandum, this Bill attempts to afford better protection to our children by better implementation of the Convention on the Rights of the Child. Compared to other segments of our population, children have not been given enough attention, probably, because they do not have the voting rights and as such have no political importance.

With the new legislation, whereby a child will now be a person under the age of 18, this segment of the population will now comprise more than 25% of our total population. Although children have no voting rights and are not able to participate actively in the political life of our country, we, politicians, have a duty to change our perspective towards childhood. Childhood means more than just the time between the birth and the attainment of adulthood. It refers to the state, the condition and the quality of a child's life. It is the initial stage of human life cycle where they need more caring and treatment because they are the founding pillars of the future.

Mr Speaker, Sir, I note that section 4 of the Bill provides for the best interest principle to be adopted. This is in line with the spirit of Article 3 of the CRC which spells out that all actions concerning children should take full account in their best interest and that requires the Legislature, the Executive, the major agencies of Government, Courts of law and private social welfare institutions within a country to make the best interest of a child a primary consideration that should be taken in their action and decision.

In that vein, Mr Speaker, Sir, the legal age of marriage which has been raised to 18 years and on which we all agree, is an important aspect in line with the best interest principle. My colleagues, hon. Ms Stéphanie Anquetil and hon. Eshan Juman, have already elaborated on the damages caused to children who enter into wedlock at a tender age.

Mr Speaker, Sir, the best interest of children also includes the State's obligation to protect children from any form of discrimination. These principles have been included in sections 4 and 11 of the present Bill and are in line with Article 2 of the Convention which expressly states that the non-discrimination principle applies to all children, irrespective of their race, religion or their

family background. It does not matter where children live, whether they are boys or girls, what their culture is, what language they speak, what their parents do, whether they have a disability or whether they are rich or poor, no child should be treated unfairly on any basis.

Section 4 of the Bill reads in relation to the principle embodied under the Articles 2, 3 and 4 of the Convention implies that it is the responsibility of the Government to provide adequate care when parents or other responsible parties failed to do so. The Government has therefore an obligation to see that our children are not neglected if ever their parents or guardians are unable to fulfil their parental responsibilities.

Mr Speaker, Sir, I now come to section 49 of the Bill, regarding the criminal liability of a child. Accordingly, a child will be prosecuted for having committed criminal offences only if he or she is aged 14 and above. This seems to be a positive step. For children of age below 14, the Associated Children's Court Bill establishes the procedures to be followed in the event that a child is suspected of having committed a criminal offence. There have been lots of debates and discussions throughout the world as to what should be the age at which children can be held responsible for having committed a criminal offence. Several experts such as Professor Anthony Pillay of the University of KwaZulu-Natal are of the opinion that in determining the age of criminal liability of children, one should take into account the stage of their brain development, but quoting US case law, where the American Medical Association opines that adolescents are more likely to make poor decisions because of their lower mental capabilities. Why? Professor Anthony argues that adolescents cannot be considered as criminally liable to the same extent as adults and suggested that the age of criminal liability should be as from the age of 16. Mr Speaker, Sir, here we notice two different opinions. I would therefore suggest that we consider the opinion of experts before revising the age of criminal liability of a child.

Mr Speaker, Sir, different legislations provide different meanings of a child as regards the upper age limit. While I note that the Bill provides consequential amendments at paragraph 73, there are other legislations which have been omitted and which need to be amended with a view to harmonising the definition of a child. I have here in mind the Workers' Rights Act of 2019, which defines a child as a person under the age of 13. Furthermore, Mr Speaker, Sir, section 8 of the Workers' Rights Act expressly prohibits child employment, which means that now with the new age threshold, it will be unlawful to employ persons under 18 as it will be considered as a

case of child labour. We, therefore, need to bring the necessary amendments to the Bill so as not to conflict with the Workers' Rights Act and we remain within the legal parameters. We need to point out that the International Labour Convention (ILC) has set out the normal minimum age of employment at 18 years. However, a child aged not less than 15 years may be authorised to undertake work, provided his mental and physical health are not jeopardised. We should, therefore, be able to review the minimum employment age so as to be in line with the recommendation of the ILC.

Mr Speaker, Sir, the implementation of the Children's Bill will require ancillary legislation such as the Children's Court Bill and the Child Sex Offender Register Bill. A hoarse measure is proposed in these two legislations. While the Children's Court Bill provides for the hearing of cases involving children, the measures provided by the Child Sex Offender Register Bill will be mostly on the monitoring aspect of child protection.

Mr Speaker, Sir, the increase in the number of child abusers is very often reported in situation of single parents, in particular where single mother aged less than 18 are concerned. In fact, there seems to be a positive correlation between the number of *filles-mères* and case of violence against children. In that regard, there is an urgent need for the proper education of all girls from the primary schooling with a view to sensitising them on the dangers of falling pregnant at a tender age.

Regarding the Children's Court Bill which will soon come into operation to hear cases against children, this specialised court will be manned by Magistrates of the immediate court. Being given the sensitive and specific nature of such cases, it is essential that Magistrates be given adequate training in the field of child legislation and child psychology so that they can carry out their task diligently and with professionalism. Very often, we fail to implement legal measures because of lengthy administrative procedures and lack of monitoring. I do hope that the Ministry responsible for child welfare will ensure that the personal appointment to implement the proposal as set out in the three Bills will carry out their duties efficiently so that legislative measures are implemented effectively.

Mr Speaker, Sir, I would like to suggest the system of Neighbourhood Watch, as it exists in some localities for the prevention of theft and crimes. We should be able to enlist the collaboration of the public and the police to report any suspected cases of violence against

children. This measure will complement sections 31, 32 and 33 of the Bill relating to the care and protection of children. It is my humble opinion that a Neighbourhood Watch system for reporting cases of abuses against children might prove to be more effective than simply relying on our institution. In the same vein, we need to pay a special attention to cases of abuses to children by parents who are drug addicts together with *filles-mères*. These categories of children are more at risk of being neglected and abused despite being under the custody of their parents.

Although the Bill does provide at section 13 for severe penalties where children are ill-treated, I suggest a special monitoring mechanism for such categories of children on the same line as the procedures set out under the Child Sex Offender Register Bill. Mr Speaker, Sir, most of the people living in Mauritius, even living in a very good condition, know little or none about the rights of the child. The Government has to change this behaviour among the population so that a clear and precise law be followed by all stakeholders in order to protect the children in a better way. As I said earlier, it is the responsibility of the State to see to it that the children are not abused and, therefore, we need to focus on areas where abuses are more likely to occur and, if need be, to provide foster new homes and shelters for these children. To combat abuse, we also have to fight poverty by empowering the families with job facilities.

Mr Speaker, Sir, to conclude, child abuse is everyone's concern and we should all denounce it at the very first sight.

With these few words, Mr Speaker, Sir, I put aside my political agenda and I commend these Bills. I also extend my special thanks to the mover of the Bill to bring these long-awaited Children's Bill to this House to protect our children from violence and abuse.

Thank you all for your attention.

(7.36 p.m.)

Mr R. Dhaliah (Second Member for Piton & Rivière du Rempart): Mr Speaker, Sir, thank you for providing me with the opportunity to debate on such a vital piece of legislation for the best interest of the children of the Republic of Mauritius. It is good to note that the previous intervener actually agreed to these pieces of legislations.

I wish, at the very outset, to congratulate hon. Mrs Koonjoo-Shah, Minister of Gender Equality and Family Welfare for having introduced the Children's Bill, which is a landmark Bill

for the care, protection and welfare of the children of our country. 25 years ago, the Government, led by an MSM Prime Minister, introduced the Child Protection Bill which was enacted in 1995. Today, the Children's Bill is being presented before this august Assembly by the MSM with its partners.

The Child Protection Act has served its purpose, but things have evolved. Many provisions of the existing law which were relevant at the time the Child Protection Bill was presented, debated and promulgated have become obsolete and needed to be reviewed to meet the new requirements or the requirements of today's society. We, therefore, came forward with the necessary amendments to ensure that the new legislations holistically cater for the protection and well-being of our children. Today's reality is hard. Every day we hear about things that we would not even have thought about some years back. It is, therefore, imperative that we set the required parameters and legislations to better protect our children in the face of the numerous dangers to which they are exposed, be it physical, psychological, emotional or sexual.

This Bill bears testimony of the commitment taken by this Government to improve the wellbeing of our children and simultaneously consolidate their rights. Our children are the future of our country and the protection of their rights is a priority. To this end, a new Children's Bill will be introduced very shortly. These sentences - which I have just quoted - emanate from paragraph 139 of the Government Programme 2020-2024. Within one year, since coming into power, this Government has come up with the Children's Bill.

Mr Speaker, Sir, this Government under stewardship of hon. Pravind Kumar Jugnauth, Prime Minister, does not make hollow promises or rely on big rhetoric without actions. This Government actually stands firm by its words. It fulfils the promises made to the population. It honours the pledge and commitments made to the nation. For years now, we have heard about the need to come up with stronger legislations regarding the protection and wellbeing of the children of our Republic. And the people will appreciate that this Government has walked the talk.

M. le président, très souvent, nombreux sont ceux qui prétendent ne rien voir quand un enfant est maltraité ou abusé. L'excuse parfaite pour cette absence d'action pour des dénonciations, c'est que nous ne voulons pas nous mêler de la vie des autres, pour ne pas dire 'chacun pour soi et Dieu pour tous'. Je dirai que c'est tout simplement de l'égoïsme et cela peut

avoir des conséquences très graves. Il est temps que cette mentalité change. Mieux vaut être un lanceur d'alerte quand nous constatons un cas d'abus que de se sentir coupable de notre silence après que le mal ait été fait. D'ailleurs, le *Children's Bill* fait provision pour que l'identité de quiconque qui dénonce un cas d'abus sur un enfant reste confidentiel.

Aujourd'hui, M. le président, nous assistons à des chamboulements au sein de notre société. Il est malheureux de constater que certains adultes, au lieu de protéger ces êtres vulnérables que sont les enfants, trouvent en ces derniers des proies faciles pour leur sale besogne, alors que d'autres voient leurs propres enfants comme un moyen de se faire de l'argent facile. Certains enfants sont sexuellement exploités, d'autres sont victimes de violence physique et émotionnelle, mais il est aussi chagrinant de constater que de nombreux enfants se retrouvent, dès leur jeune âge, impliqués dans la spirale de la mendicité. Certains sont encouragés par leurs parents à mendier alors que d'autres, souvent très petits, sont utilisés par leurs parents pour attendrir le cœur des gens. Nous avons tous vu ces adultes demandant l'aumône avec un enfant dans les bras près des guichets automatiques, aux abords des gares ou à proximité des commerces. Cela fend aussi le cœur de constater que certains petits innocents qui n'ont pas demandé à venir au monde être abandonnés dès la naissance. Un petit tour dans nos hôpitaux ou dans des institutions d'accueil en dirait long sur ce phénomène.

Mr Speaker, Sir, this Government is passionately geared to work towards raising the standard of living and quality of life of the whole population with a special interest to the children of this country. The introduction of a set of legislation in the form of the Children's Bill, the Child Sex Offender Register Bill and the Children's Court Bill bears testimony of the passion of this Government towards our children. As a responsible Government, we cannot ignore the paramount importance of child protection and safety. The measures enunciated in these Bills ascertain that appropriate steps have been taken to provide the necessary protection to our children.

Mr Deputy Speaker, Sir, this Bill contains some 75 clauses dealing with wide ranging issues affecting the well-being of children. These issues include, amongst others –

- the children's duties and responsibilities,
- the parent's responsibilities and rights,

- discrimination against a child,
- marital age for children,
- corporal punishment,
- abduction of children,
- sexual abuse against children,
- the need for childcare and protection,
- protection orders for children,
- children with serious behavioural concerns,
- child mentoring scheme,
- criminal responsibility of children, and
- assessment of child offenders.

These issues have to be dealt with cautiously in view of the sensitive nature of child protection which requires critical thought and consideration.

In this respect, the main objective of this Bill is to repeal the current Child Protection Act and replace it with a more modern and comprehensive piece of legislation adapted to current circumstances and challenges. The issues are complex and sensitive because they relate to children who need the best of attention at the tender stage of their life. In addition, this Bill will better respond to the requirements set forth by, firstly, the United Nations Convention on the Rights of the Child and, secondly, to the African Charter on the Rights and Welfare of the Child to which Mauritius is a party.

Mr Deputy Speaker, Sir, I will dwell on some of the key specific issues covered in this Bill. First and foremost, this Bill is guided by the core principle of best interests of the child. What is 'best interests' of the child? Best interests of the child are derived from Article 3 of the United Nations Convention on the Rights of the Child which stipulates that, I quote -

“In all actions concerning children, whether undertaken by public or private social welfare institution, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration.”

According to this Convention, assessing the best interests of a child means to evaluate and strike a balance based on all the elements necessary to make a decision in a specific situation for a specific child or a group of children.

The clear mandate of any authorities dealing with children issues is to protect the best interests of the child in all circumstances. In the interpretation of the best interests of a child, top priority should be given to the child's concerns, aspirations and rights. This Bill, which contains 75 clauses, emphasizes on the best interests of the child more than 35 times. Besides Clause 4 of this Bill has comprehensively defined what the 'best interests' of the child is all about. I have no doubts that when the provisions of this Bill will be implemented the best interests of the child will be upheld to protect our children.

Another important aspect covered in this Bill relates to the punishment to be inflicted to those who contravene the law and cause harm to children. This Bill provides that, for offences such as child ill treatment, child abduction by parents, removal of child from place of safety, mendicity, access to gaming house and sale of alcohol, the fine has been increased from Rs25,000 to Rs200,000, that is, an eight-fold increase.

In the case of abduction of a child by other persons, the fine has gone up to Rs1 m. This Bill provides for penal servitude ranging from 2 years to 30 years depending on the nature of the offence. I am sure that the population will agree that the punishment has been made more severe taking into account recent cases of child ill treatment going to the extent of causing death.

Mr Deputy Speaker, Sir, people always talk of their rights but forget about their responsibilities. It must be reminded that rights are always followed by responsibilities. In this crucial Bill, this Government has taken the care to lay down not only parental responsibilities and rights but also children duties and responsibilities. These have been explicitly spelt out at clauses 6 and 7 of this Bill.

Mr Deputy Speaker, Sir, another crucial point that I want to highlight is child marriage. According to the United Nations, 37,000 girls under the age of 18 are married each day. 1 in 3 girls in developing countries are married before the age of 18 and 1 in 9 are married before the age of 15. If this trend prevails more than 140 million girls will be married before the age of 18 in the next decade. There is a need to pull the brake towards this trend. Child marriage has a negative and devastating impact on the lives of those children getting married before the age of

18. It effectively ends their childhood, curtails their education opportunities, increases the risk of domestic violence, among others.

The far-reaching consequences of child marriage are well beyond the children themselves. Ending child marriage that is not allowing any marriage to take place before 18 years of age is the right thing to do. It is, in fact, the smart thing to do. Children in this country deserve to live their full childhoods. They should be allowed to go to school during this crucial part of their lives, be free of violence and negative health consequences associated with child marriage. Child marriage negatively impacts on the lives of children. It also directly hinders the accomplishment of the Millennium Development Goals which set out development priorities for the world including Mauritius. Child marriage also perpetuates the cycles of poverty, poor health, illiteracy and violence, all of which have adverse impacts on overall development, prosperity and stability.

This Government has, therefore, taken the best interests of the child to ensure that the children of the Republic of Mauritius fulfil their true potential of their childhood. Thus, it is considered that no child marriage can take place before the age of 18 and, in this context, clause 12 of this Bill provides that any person, who forces or causes any child to marry civilly or religiously before the age of 18, shall commit an offense.

Mr Deputy Speaker, Sir, I wish to conclude by stating that childhood is not just the start of life, it is the very foundation of life. It is the base from which we reach our full potential and this is the very base for a peaceful and fruitful society.

History will judge us by the difference we make in our everyday life of our children. Let us sacrifice our today so that our children can have a better tomorrow. This Bill sets the blueprint for the best interests of the child and the family. This Bill is a major step forward in terms of protecting the rights of children. There is no doubt that this Bill will pave the way for a more conducive environment for the children of the Republic of Mauritius to grow and develop their full potentials and become the pride of our nation.

I will end by this quote from late Nelson Mandela –

“Our children are the bedrock on which our future will be built. They are our greatest asset as a nation and they will be the leaders of our country, the creators of our national wealth and those who will care for and protect our people.”

I, therefore, fully support the provisions enunciated in this Bill.

Long live the children of the Republic of Mauritius!

I thank you, Mr Speaker, Sir.

(7.53 p.m.)

Mr F. François (First Member for Rodrigues): “*Chaque enfant doit être accueilli et défendu, aidé et protégé dès le sein maternel*”, écrit le Pape François pour la Journée Internationale des Droits de l’Enfant 2020.

M. le président, je voudrais tout d’abord, saluer les trésors, les merveilles et les bâtisseurs de demain de notre République, qui sont les enfants de Rodrigues, les enfants de Maurice, les enfants d’Agaléga et les enfants, dont leurs racines familiales se trouvent sur l’Archipel de Chagos.

Nous débattons aujourd’hui, the *Children’s Bill (No XVII of 2020)*, the *Children’s Court Bill (No. XVIII of 2020)* and the *Child Sex Offender Register Bill (No. XVIII of 2020)* présentés par l’honorable madame la ministre Koonjoo-Shah.

Ces projets de lois constituent un grand pas pour concrétiser davantage les droits des enfants, en protégeant l’avenir de notre République par la prévention, renforcer les familles et les institutions, et créer un avenir sain pour les enfants.

Nous sommes tous appelés à protéger les enfants contre les dangers de l’esclavage de la prostitution infantile, la violence domestique, la drogue et d’abus surtout sexuel.

M. le président, quelle souffrance humaine et sociétale, quand on pense à tous ces enfants vulnérables exposés et victimes de ces dangers.

Quelle souffrance, quand un enfant dont un de ses parents, est incarcéré et perd la vie par des traumatismes inhumains.

Quelle souffrance pour ce jeune de 17 ans, toxicomane depuis l’âge de 10 ans et qui consommait de l’héroïne. Comment sauver ces enfants ?

Permettez-moi, ici, de rendre hommage, à une grande patriote et une grande policière, la défunte WPC Dimple Raggoo pour son acte de courage et de dévouement pour sauver notre société contre ces criminelles qui la pourrissent. Quelle souffrance et quel sacrifice pour la nation!

M. le président, je suis aussi inspiré, comme l'honorable Dhaliah, par l'article 3 de la Convention Internationale des Droits de l'Enfant, qui stipule, que -

« Dans toutes les décisions qui concernent les enfants, qu'elles soient le fait des institutions publiques ou privées, de protection sociale, des tribunaux, des autorités administratives ou des organes législatifs, l'intérêt supérieur de l'enfant doit être une considération primordiale. »

Et c'est exactement ce que veut accomplir nos gouvernements. Je dis bien nos gouvernements. Mais, on constate aujourd'hui, la démission et la déresponsabilisation des parents vis-à-vis des enfants.

On est aussi en face de la technologie moderne qui façonne une nouvelle classe des enfants et des jeunes à deux visages, dont un visage réel et l'autre un faux visage derrière un masque créé sur les réseaux sociaux. Une grande réflexion s'impose par rapport à la dignité numérique des enfants pour les protéger et les orienter vers le bien-être de notre société.

Mr Speaker, Sir, now, I will focus on a few clauses of the Bill, with respect and promotion of the best interests of children to giving better effect to the UN Convention and the African Charter.

Despite Government and NGOs efforts to improve our children's wellbeing, many children are continuously experiencing ill-treatment, discrimination, abandonment, humiliating punishment, violence, neglect, poverty and poor health.

The UN Sustainable Development Goal 5 obligates countries to end child early or forced marriage by 2030. I subscribe to the prohibition of marriage of children under the age of 18 in the Bill.

I also welcome the laudable initiative for the National Strategy and Action Plan on Elimination of Gender Based Violence recently launched by the hon. Prime Minister, which has a direct bearing on our children.

I reiterate as well, the importance for our Parliament to establish a Parliamentary SDG Committee.

Mr Speaker, Sir, in clause 50, a Police Officer shall not arrest a child under 14, suspected of having committed an offence, but shall conduct an enquiry.

I like the principle that young offenders are victims of their environment and need help rather than punishment.

In some corner, there is an argument that the minimum age could be reduced to 12 years for some offences.

In comparison to country like New Zealand, the minimum age of criminal prosecution is 14 for most offences, 12 for certain serious offences, and 10 for murder and manslaughter.

Mr Speaker, Sir, clauses 21 and 22 deal with Child Pornography and Child Grooming.

A serious menace worldwide today, is sexual tourism through child grooming. According to the 2017 data provided by the World Tourism Organisation, each year, 3 million people throughout the world travel in order to have sexual relations with a minor.

I am grateful that our law is being reinforced and Government is making significant efforts to protect our children from exploitation, as rightly highlighted in the 2020 Report on Human Trafficking of the US Department of State.

Mr Speaker, Sir, one fundamental aspect of our society that requires our deep concern is eradication of child poverty. Poverty must not limit the opportunities for our children. The Government housing vision, '*enn fami enn bon la case*', be it at national or regional level in Rodrigues, is part of the answer. By the way, I salute and encourage the *Association, Elle C Nous Association*, that I met yesterday.

Today, many vulnerable children are pursuing their dream for a better future throughout the support and empowerment provided by NEF and Government. In Rodrigues, out of 2,393 households, there are 3,954 children benefiting from NEF Schemes. I congratulate NEF-Rodrigues for their good work thereat.

However, I am a bit perplexed that there are 235 children classified as abandoned children receiving social aid in Rodrigues.

My question is, whether, the mechanisms of the Social Register of Mauritius (SRM) are favourably effective for child poverty monitoring? I believe that a review of the SRM assessment eligibility is necessary.

Mr Speaker, Sir, clause 61 (2)(b), in relation to sentencing a minor, at present, in Rodrigues, there is no RYC Girl, no CYC and no Probation Home or Transit Home. An RYC Girl will be operational soon.

There is a Safe Residential Care Institution for children at the Foyer Marie Madeleine de la Croix at Baladirou, accompanying 25 minors for their reintegration into family environment and normal life.

In line with rule 16 of the Beijing Rules, a dedicated Clinical psychologist must assist the Children Court when considering, if a period of detention at the RYC or CYC would affect the child psychologically.

With regard to minor from Rodrigues being transferred to Mauritius CYC, I believe that there is a constitutional right problem.

This was also raised in the Convention on the Rights of the Child Alternative Report for Mauritius in March 2014, where a child from Rodrigues was brought to Mauritius and placed in the RYC; at his release the child was found on the streets because he had not been returned to Rodrigues and had no means to contact his family or afford a return ticket.

Mr Speaker Sir, in my speech on the Reform Institutions (Amendment) Bill (No III of 2018), I plead for the urgent need for future investment in a Correctional Youth Centre in Rodrigues, so that accused Juvenile and Youths from Rodrigues, should remain within the cultural environment and specificity of Rodrigues.

Mr Speaker, Si, in my speech of the Reform Institutions (Amendment) Bill (No. III of 2018), I plead for the urgent need for future investment in a Correctional Youth Centre in Rodrigues so that accused juvenile and youths from Rodrigues should remain within the cultural environment and specificity of Rodrigues.

In the same vein, the Probation Service and CDU Rodrigues must be strengthened to meet the requirements of this Bill. There is need for continuous training sessions for them together with other stakeholders, Police, CDU, *Brigade des Mineurs* and the others. The

Ombudsperson for Children Annual Report 2019-2020 goes along the same line. It is observed that minors in detention don't have access to schools. Thus, I propose the setting up of a Special Rehabilitation Programme that should be worked out with the MITD and the Probation Home or Transit Home for Rodrigues which must be created shortly.

I believe that a Compulsory School Order, in addition to Preventive Intervention Order, as specified in clause 42 (2) should be included in the Bill. Another serious issue is the guardianship of minors, where their parents are absent from Rodrigues and not necessarily abandoned their children, but left them with grandparents. I propose that the law be amended to provide for a Temporary Guardianship Order with regard to the specificity of Rodrigues. The Temporary Guardianship Order will be useful in situation where it may be required to register the minor in school, to facilitate any transfer to Mauritius or participation in sport activities or for medical treatment.

Mr Speaker, Sir, now, I will relate to the Court Bill to Rodrigues. I have submitted a few queries with regard to its applicability to Rodrigues to the hon. Minister that surely she will clarify. Statistics from January 2015 up to November 2020, show that 311 cases, out of which 114 for period October 2019-November 2020, involving children, were reported at the Rodrigues Police Division. Statistics obtained from the CDU Office show that, in 2019, there were 422 reported cases and for this year from January to August, 371 cases, involving children and youngsters. I feel particularly concerned with statistics on behavioural and teenage pregnancy. I note that the Commission for Child Development and the Commission for Education, with the help of UNFPA, have prepared a manual for a two-year Comprehensive Sexual Education Programme in pre-primary schools and a Care Plan for at risk Children based on a systemic approach model.

Clause 12 of the Court Bill provides for a child-friendly environment. This is a fundamental change in our court system at national level. Mr Speaker, Sir, there is established within the Rodrigues Court, a functional Juvenile and Family Unit (JFU), which is a mini Children's Court in principle, inaugurated in 2016. The Unit is a response to remarks of the Human Rights Commission in 2015, with regard to the absence in Rodrigues of reformatory institutions, probation home, detention centre for minors and problems caused due to rise in sexual offences involving minors and delay in bringing the juveniles to justice. It is in line with

Article 40 of the UN Convention. I visited the JFU two weeks ago. It's an amazing simple Child-Friendly Court model with a library, including educational informative and arts materials, TV and DVD Player, medical facilities and other amenities as may be required to make the life of the child more comfortable while attending Court.

There is also a sensitive Witness Room fitted with camera and video linked to the Court Room, where the victim may be seen by the accused without the latter seeing him. The model is an integrated approach to remedy the justice system towards rehabilitation, reintegration and prevention mechanisms instead of repression and punishment.

Mr Speaker, Sir, Her Honour Miss P.D. Mauree, the promoter of the model, the then Magistrate in the Rodrigues Probation Office Newsletter of 2016, stated, I quote -

“The Unit is an innovative challenge which is unique to Rodrigues and a leader in the Indian Ocean as a child-friendly jurisdiction”.

I pay tribute to the then dedicated team of the Rodrigues Court under the leadership of Magistrate Mauree, the Senior Probation Officer, Mr Leste, the Rodrigues Police Division, *Brigade des Mineurs*, the Commission for Child Development, CDU-Rodrigues and NGOs like *Comité des droits de l'enfant*, and CRAC (Anti-Alcohol and Anti-drug Group). I hope that the Rodrigues Court is proud of their achievement that, today, their mini Children's Court model is being replicated at national level.

Mr Speaker Sir, the Rodrigues Regional Government, under the leadership of Serge Clair, is working relentlessly to continue exploring, developing, implementing policies, measures to prevent domestic violence and to ensure fair treatment to the victims. Commissioner Gaspard-Pierre Louis responsible for Child Development has announced the implementation of a Parent Schooling Programme soon.

In the spirit of the autonomy of Rodrigues for the applicability of the Bills in Rodrigues, and not to undermine the work already achieved so far, I propose that clause 71 of the Children's Bill be amended to provide for RRA to make Regulations applicable for Rodrigues under this Act and/or the Regional Assembly Act. For example, there exists a Rodrigues Child Mentoring Scheme Regulations of 2014 under the Regional Assembly Act. With the enactment of these Bills, Rodrigues must create a local adapted structure for children, either a Rodrigues Children

Council ou un Observatoire des Droits de L'Enfant à Rodrigues or a Platform as an umbrella for children issues. This could be a reviewed formulation of the Rodrigues Children Council, as proposed in 2005, by the former Commissioner responsible for Child Development, Mrs Arlette Perrine-Bégué. Unfortunately, after debate of the Rodrigues Children Council Bill at the Regional Assembly, it has never gone through the process of legislation at the National Assembly for adoption.

Mr Speaker, Sir, at the judiciary level in Rodrigues, an important concern is the appointment of State Counsel on a more permanent basis, let's say, a 3 or 6-month basis, will be beneficial to fast-tracking cases of minors, especially those in detention for bail applications. Nowadays, I understand that it is a recurrent feature for defence counsel to move for postponement of juvenile cases due to non-obtention of the briefs, as same have been sent to the State Law Office in Mauritius and not available at the Prosecutor's Office in Rodrigues.

With regard to the Diversion programme, in Clause 56 of the Bill, I note that no specific measures have been provided for Rodrigues, which needs to be defined with the Regional Assembly later on. Surely, the Minister and the Commissioner for Child Development can discuss on that. Mr Speaker, Sir, for Section 7A of the Legal Aid Act, I appeal for a revisit of the legislation in relation to legal aid in Rodrigues with regard to costs involved by counsel/attorney appearing before the Court. The Judiciary must create a pool of lawyers and attorneys for same. Further, the FSL Office must create a separate Unit to expedite juvenile cases from Rodrigues, especially those concerning drugs cases.

M. le président, comme j'ai mentionné, nous faisons face aux problèmes de sexualité et de grossesse précoce. Ça fait mal de voir un enfant donner naissance à un enfant. Et, les dangers s'amplifient quand on voit que certains lieux de divertissement, avec des permis d'alcool, autorisent l'accès des enfants alors que l'alcool flotte à gogo. Les articles 23 et 24 du *Children's Bill* doivent être amendés pour faire provision dans ce cas précis.

M. le président, Rodrigues ce n'est pas Maurice. Avec le phénomène de la COVID-19, on constate un peu de désordre à Rodrigues par rapport à certaines pratiques de divertissement qui fragilisent et même qui salissent notre tissu social et qui sont contraire à nos valeurs sociétales. Je fais un vibrant appel aux parents de Rodrigues, et surtout au Commissaire de Police en partenariat avec l'autorité locale de continuer l'examen en toute urgence de cette situation et à

stopper cette pratique. Les mineurs ne devraient pas être autorisés à accéder à ces lieux les soirs jusqu'aux petites heures du matin.

Par contre, nous avons le devoir de faire de nos enfants, pour leur épanouissement, pour l'avenir de notre République, pour l'avenir de Rodrigues, des acteurs pour la culture, l'environnement, le changement climatique et les valeurs sociétales.

M. le président, permettez-moi de mentionner le Mouvement Action Catholique des Enfants de Rodrigues (l'ACE), qui est aussi affilié avec le Mouvement International d'Apostolat des Enfants (MIDADE), depuis 1978.

Je me souviens encore les paroles des enfants de Rodrigues qui résonnent toujours dans le temps pour une prise de conscience des réalités de la vie Rodriguaise – « *ala nou vini -pas bisin gagne peur pour batir sa monde-là, pour faire nou Rodrigues enn Rodrigues solidaire* ». Extraordinaire!

Je note que, Rodrigues, à travers la MIDADE, dans son rôle consultatif auprès de l'UNICEF, le Conseil Economique et Social des Nations Unies (l'ECOSOC) et le Bureau International du Travail (BIT), a contribué dans la rédaction de la Convention relative aux Droits de l'Enfant par les Nation Unies dont mademoiselle Antoinette Prudence était la Secrétaire Générale de 1982 -1986 en France.

Je fais un rappel de l'engagement de Rodrigues et le *leadership* de mesdemoiselles Antoinette Prudence et Florence François, qui créaient par la suite le Comité des Droits des Enfants de Rodrigues en 1989. La République de Maurice a ratifié la Convention en 1990, alors que Sir Anerood Jugnauth était Premier ministre et Serge Clair, ministre de Rodrigues.

Je souligne la contribution des ONG comme l'Association Ecole Maternelle de Rodrigues, des Agents de l'Éducation et des Agents de Santé avec l'aide de l'UNICEF, pour leurs combats contre le problème de l'absentéisme et de l'illettrisme des enfants de Rodrigues.

M. le président, permettez-moi aussi de rendre hommage aux pionniers pour le bien-être des enfants de Rodrigues, comme Imelda Perrine, Antoinette Prudence, Fock Seng Ho Tu Nam, Vinolia Spéville et Michèle Ben Lévêque, entre autres.

La voix des enfants de Rodrigues, dans la solidarité, a influencé l'autorité locale, selon la méthode voir, juger et agir, sur plusieurs fronts parmi, je me souviens très bien –

- la revendication contre le fait que trop de vin était acheminé vers Rodrigues alors que Rodrigues avait d'autres besoins prioritaires;
- la valorisation de sa culture par rapport aux acquis du peuple, l'insertion de la langue créole dans le cursus scolaire, entre autres.

Je propose que le Gouvernement central et régional ensemble avec des ONG mettent en place un Parlement Populaire des Enfants de la République - un Parlement Populaire des Enfants de la République, pour leur donner cette possibilité d'exprimer leurs opinions dans la prise de décision sur toutes les questions qui leur touchent et pour plus de responsabilisation.

En cette Journée Internationale des Personnes Handicapées, Rodrigues veut aussi faire de nos enfants handicapés des champions du monde à l'exemple de Brigila Clair au lancer du poids.

M. le président, pour conclure, ces projets de lois permettent un changement fondamental dans cette construction sociétale en ce qui concerne l'importance, la protection et le bien-être de nos enfants. Je suis heureux de constater un élan de solidarité et d'unité nationale de chacun de nous ici dans cette Chambre pour l'avenir de nos enfants et celle de la République.

Ainsi, dans cet élan d'unanimité, favorisons la protection, l'épanouissement et la responsabilisation de nos enfants pour un avenir sain.

Bientôt, ce sera la fête de Noël qui symbolise le signe des enfants, je pense que ces projets de lois, présentés par madame Koonjoo-Shah, sont de très beaux cadeaux pour tous les enfants de la République qui sont notre espérance.

Toutes mes félicitations à madame la ministre Koonjoo-Shah.

M. le président, sur ce, je vous remercie pour votre aimable attention.

Mr Speaker: Hon. Members, I suspend the Sitting for one hour.

At 8.19 p.m., the Sitting was suspended.

On resuming at 9.36 p.m. with the Deputy Speaker in the Chair.

The Deputy Speaker: Thank you very much. Please be seated!

Hon. Nuckcheddy, please!

Mr S. Nuckcheddy (Third Member for Flacq & Bon Accueil): Thank you, Mr Deputy Speaker, Sir.

At the very outset, I welcome this long-awaited Bill and I feel proud today that I am part of that Government, which is again respecting its commitments. Since the hon. Minister Koonjoo-Shah took office, she set the Bill as one of the top priorities and after a year, we are here debating on this Bill. I am a bit surprised that hon. Ms Anquetil mentioned that the hon. Minister took a year to bring this Bill. However, not surprised at all that she tried to imply that her various PQs on child abuse entailed these Bills. Earlier, hon. Juman took the same direction. You know, Mr Deputy Speaker, Sir, our hon. friends on the other side of the House have expressed their non-belief in this Bill, but they are always looking down; so, it's obvious that they will never find a rainbow.

I have noted how pessimist our friends of the Opposition are, and it reminds me of a saying of Thomas Friedman who said, and I quote –

“Pessimists are usually right and optimists are usually wrong, but all the great changes have been accomplished by optimists.”

And our Government is going to change the lives of children for their betterment with these Bills. However, it is also painful, painful that in a day like today, in a country like Mauritius, we have to come with a Bill to protect our children. The protection and welfare of children is a right which a child holds since he is in his mother's womb. We have to act and change this world, but change will never truly come if indifference remains the standard of care. We are the duty bearers. We are responsible for ensuring that the right of every child is respected by ensuring that appropriate health care, education, leisure opportunities, adequate standard of living, a supportive family or alternative care, and protection from abuse or exploitation are available for our children.

Mr Deputy Speaker, Sir, we are talking of children. In her intervention, the hon. Minister Koonjoo-Shah mentioned that our children are like pearls. Myths have it that pearls keep our children safe while strengthening our relationships. Children of today, Mr Deputy Speaker, Sir, will make the world of tomorrow; the future of the universe depends on how we bring our children today. The famous poet Rabindranath Tagore once said that –

“Every child comes with the message that God is not yet discouraged of man.”

Mr Deputy Speaker, Sir, children bring us joy and a sense of purpose. Children are a gift of God. That’s why we need to protect them. Children only come through us; not from us. They are sent by God. As I said earlier, it’s a pity that we have to debate on a Bill on child protection in such a wonderful world where we have plenty of wonderful people. This Bill, Mr Deputy Speaker, Sir, goes in line with the United Nations Convention on the Rights of the Child and, in fact, it touches the important aspects like promoting children’s welfare in a spirit of justice rather than one of charity. In the beginning, I mentioned that these Bills are long-awaited. I make reference to that term because many a time, I have read or heard on the media, after we came across a case of child abuse, that in the meantime, the Children’s Bill is awaited.

This means, Mr Deputy Speaker, Sir, that these three Bills on which we are debating carry hope. These Bills are a tribute to all the children who have been ill-treated. Hon. Minister Koonjoo-Shah mentioned that between 5,000 to 6,000 cases are reported on average each year to her Ministry. Who knows? There might be other cases which are not reported. The Bills provide that certain provisions of the National Children’s Council Act be reviewed so as to promote better participation of children by giving them opportunities to voice out their views and their concerns, and also participate in developmental activities. This is what we call a forward-moving step; a Children’s Bill for our children. It allows to show our children that we love them, especially when we look at clause 7 of the Children’s Bill, we see that it deals with parental responsibilities and rights, and this clause stresses that any person having the legal responsibility of a child shall provide his basic needs, including the responsibility to take decisions relating to the child’s day to day upbringing; upbringing meaning inspiring them, and inspiring them means inspiring the world. We can’t inspire our children by allowing them to marry before they have reached the age of 18. I acclaim this measure.

Mr Deputy Speaker, Sir, prohibiting children to get married before the age of 18 means not just protecting the children, but also the baby as, Mr Deputy Speaker, Sir, it is a known fact that there exists a strong correlation between the age of the mother and the child’s health. If this Bill defines a child as someone who is under the age of 18, it then means that allowing marriage under the age of 18 is allowing child marriage. Child marriage is a human rights violation that this Bill tries to tend to achieve a better future for all. Children are neither physically nor

emotionally ready to become wives and mothers or husbands and fathers. They face more risk of experiencing dangerous complications in pregnancy and child birth, contracting HIV/AIDS and suffering domestic violence. Childhood is not for motherhood. Let a child be a child.

Mr Deputy Speaker, Sir, for any project to succeed, we need to have a follow-up, and clause 8, which is entitled Panel, will have this responsibility to monitor the implementation of the Act. The Panel, Mr Deputy Speaker, Sir, will also assure that all decisions taken in respect of cases involving children are implemented on a fast track basis.

Mr Deputy Speaker, Sir, clause 11 to clause 29 of the Children's Bill deal with the different types of offences that may be committed against children. These clauses also mention the sanctions to which the offenders will be liable. We are signatory of the Convention on the Rights of the Child of the United Nations and the African Charter on the Rights and Welfare of the Child, amongst others. Article 19 of the Convention on the Rights of the Child makes it clear that children and young people have the basic human right to dignity. This means they have the right to be protected from violence just like anybody else. The Article also states that it is the Government that must make sure that this right of a child is protected while he or she lives in the care of parents, legal guardians or any other person who has the care of the child.

Mr Deputy Speaker, Sir, we read and listened a lot recently on the case of young Ayaan who was only two years old. Young Ayaan was murdered by his biological mother's partner. That little child, Mr Deputy Speaker, Sir, did surely not die because of a slap as the alleged murderer is trying to explain after first of all trying to disguise the murder into a natural death.

While we were all in lockdown during the month of March, in my own Constituency No. 9, in the village of Quatre Cocos, a little girl of only 9 years old, Farida, was similarly murdered. When I talk of this case today, I see that most of us have already forgotten about her. Again, her own biological mother, together with her partner, killed that little angel. Not only that, they first of all tried to cut the body into pieces. When they could not, they then tried to burn the body. Again, when they did not succeed in burning the body, they finally put that little child's body under heaps of manure. They then reported at the Police Station that the girl has eloped. At that time, one of the local Press reported, and I quote –

“Elle n'avait que 10 ans. Mais la petite Farida Jeewooth portait le poids du monde sur son dos. Des appels au secours, il y en eu plusieurs, notamment lorsqu'elle a fait part de

ses malheurs à ses camarades de classe. Mais l'intervention de son établissement scolaire n'a pas non plus amélioré la situation de la petite. Le dimanche 29 mars, après des années de souffrance et d'appels à l'aide jamais entendus, elle a poussé son dernier souffle dans une terrible douleur."

What these people risk today? 30 years of imprisonment! Today, at this point in time, these people are breathing the same air as we are all breathing. They are living on the same land as we are. Today, Mr Deputy Speaker, Sir, we are spending about Rs750 daily on each of them, and we will continue to do that till they do not complete their sentence for a decade or two. Moreover, as we have seen in previous cases, we do not have any guarantee that when these criminals will come out, they will not repeat the same crime again. I am sorry, Mr Deputy Speaker, Sir, but, as a parent, it is difficult for me to accept that. Hon. Minister Koonjoo-Shah stated on that day of 30th March 2020, that she condemns this act of barbarism and these people are not worthy of being called parents. I do concur with the hon. Minister Koonjoo-Shah that they are not worthy of being called parents.

Mr Deputy Speaker, Sir, as we, Members on this side of the House, are allowed to express our own personal opinions on debates without engaging the party or committing to any party line policy and, in my opinion, for such barbaric act, these people should be sentenced to the most severe punishment that we may have. That will be my request, Mr Deputy Speaker, Sir. If we really want to protect our children; if we really want to abide by Article 19 of the UNCRC, my request will then be to severely punish those people who harm our children. We should send a strong message to those criminals that this Government is really serious in the protection of our children and, in my personal opinion, even if we have to go capital punishment, which I am sure remains the most reliable deterring measure.

Mr Deputy Speaker, Sir, I commend this Bill on behalf of all our children. Thank you, Mr Deputy Speaker, Sir.

The Deputy Speaker: Thank you very much. Hon. Uteem!

Mr R. Uteem (Second Member Port Louis South & Port Louis Central): Mr Deputy Speaker, Sir, we all want what is best for our children. We all want to better protect our children, but each one of us has his own idea about how to better protect our children. And if we may be critical of certain aspects of the Bill today, if we may not agree with everything in the Bill, it is

not because we want to score political points, as suggested by hon. Ramchurrin; it is not because we are pessimistic, as suggested by hon. Nuckcheddy. Rather, it is because we all want what is best for our children; we all want to better protect our children.

In fact, last year, the then Vice-Prime Minister and Minister for Child Development and Family Welfare even moved for the First Reading of the Children's Bill on 17 September 2019. But before the Bill was debated, Parliament was dissolved. On 04 July of this year, when asked about the Children's Bill, the current Minister of Gender Equality and Family Welfare, hon. Mrs Koonjoo-Shah stated, and I quote –

“Je ne suis pas une ministre copy paste. Depuis mon entrée en fonction, je travaille d'arrache-pied là-dessus.”

So, the Bill before this House today is very different in many respects to the Bill presented last year by the same Government, but no one on the other side of the House criticised the former Bill. Yet, there are provisions in this Bill that contradict, are totally different from what was in the previous Bill, and I am going to refer to it when I come to minimum age for criminal liability and marriages.

Mr Deputy Speaker, Sir, the Children's Bill before this House is in many respects an improvement on the existing legal framework to better protect our children. The Bill also implements our obligation under the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child. And we, on this side of the House, we are generally agreeable with the three Bills that are before this House today. In fact, these Bills are being debated at a time when our children need more protection than ever. How can we remain insensitive when we think about the little Ayaan, the little Farida, the little Eleana, the little Juanita, and all the other little angels who have been abused? The hon. Minister for Gender Equality and Family Welfare gave us some shocking figures last week; between 5,000 and 6,000 cases of child abuse are reported on average every year to her Ministry, and the figures are on the rise. To reverse this trend, the Children's Bill today imposes duties and responsibilities on parents and severely sanctions any ill-treatment, any neglect, and any harm to a child by his parents.

The Children's Bill also creates a series of new offences relating to children. It imposes tougher penalties and sanction. The Bill implements several recommendations of the Review

Paper published in May 2016 by the Law Reform Commission. These are all welcomed measures. But, Mr Deputy Speaker, Sir, we on this side of the House, do not understand why section 19 sub section 3(b) no longer makes it an offence for “an indecent act (*attentat à la pudeur*) upon a child of age 12 or above but under the age of 18, where the child has consented thereto.” May I remind the hon. Members, as the law correctly stands, we have on the one hand section 249 sub section 3 of the Criminal Code that makes it an offence for any person who commits an indecent act, ‘*attentat à la pudeur*’ upon a child under the age of 12, irrespective of whether there is any violence or whether the child has consented. So, that is under the Criminal Code for Children under 12. But for children above 12, section 14 of the Child Protection Act makes it an offence for any person who causes, incites or allows a child to be sexually abused by him or another person even where the child was a willing participant. And not later than last year, the Supreme Court in the case of Daby v/s the State confirmed a sentence of 2 years imprisonment where a 13 year old child was involved, even though the Court found that the child was a willing participant. So, my question is: why are we changing the law? Why are we no longer criminalising *attentat à la pudeur* on child above the age of 12? Surely, a child above 12 years of age cannot consent to be sexually abused. Surely, a child above 12 years of age has to be protected against sexual predators. Are we acting in the best interest of the child? Are we not, in fact, acting in breach of our obligation under the Convention on the Rights of the Child, especially Articles 34 and 36, which require State parties to protect the child against all forms of exploitation prejudicial to any aspect of the child’s welfare? So, we are making an earnest plea to the hon. Minister to amend the Bill and remove this section 19, subsection 3(b).

Part IV of the Bill deals with children in need of care and protection. Again, we are generally in agreement with the general philosophy behind this new provision, especially the fact that a placement period should not exceed 3 years. The idea is that a child should be returned to his parents or other family members as soon as practicable and not stay in shelters till the age of 18 as is, unfortunately, the case today.

Mr Deputy Speaker, Sir, the staff of the Child Development Unit does a tough job and, unfortunately, very often comes under attack. Some attacks are unjustified, others are, unfortunately, justified, and there is certainly room for improvement. But why does the Bill take the decision-making power, today, away from the Permanent Secretary and give it to an authorised officer designated by the Supervising Officer of the Ministry? Decision to apply for

an emergency Protection Order, for a Placement Order, for a long-term Care Order are very important decisions not to be taken lightly, because we are talking about taking away a child from his natural environment, from his parents, and putting him in a place of safety. So, this decision should be taken by a person with sufficient experience, sufficient seniority, as is currently the case with the Permanent Secretary, and my humble opinion is that it should not be left to any authorised officer designated by the Supervising Officer.

And is it in the interest of the child that now the Police will conduct the necessary enquiries? Interview the child and initiate civil action for emergency protection order. Should not this be left to the psychologists and the trained personnel of the Child Development Unit to do the needful, as is currently the case? Why get the Police involved? Why has the child to be traumatised by Police Officers instead of going through the Child Development Unit, as is currently the case? Also, why does the law still provide that the child in need of care and attention can be sent to a hospital as a place of safety? A hospital is not a suitable environment to keep the child, who is otherwise in good health, and Brown Sequard Hospital is definitely not a place to keep children with serious behavioural concerns.

If there is a shortage of space in shelters, then the solution would be to license more shelters, and if there is no one willing to carry out and operate shelters, then the State should operate more shelters, and if the State cannot operate more shelters, then, at least, the State should encourage foster home, encouraging transferring the children to foster home instead of committing them to hospitals.

Mr Deputy Speaker, Sir, Part V of the Bill deals with child offenders, child victims and child witnesses. The Children's Bill repeals the outdated Juvenile Offenders Act and replaces it with new provisions on how to deal with child offenders, how to deal with child victims, how to deal with child witnesses. This is a definite improvement on the current state of affairs, but the minimum age for criminal responsibility remains a subject of debate. At what age should a child be presumed not to have the capacity to commit an offence? There is currently no minimum age limit. In fact, section 11, subsection 2 of the Juvenile Offenders Act 1935 currently provides for situation where a juvenile under 14 years old may be tried by the Juvenile Court. Presumably, this means that, today, a child below the age of 14 may be criminally liable.

The Children's Bill introduced in Parliament last year provided that a child aged 12 or above could be prosecuted. We did not agree with that. Hon. Ramchurrin, this is one of the 5% of the last year's Bill that we were not agreeable with. And I am glad, today, that the hon. new Minister for Gender Equality and Family Welfare has changed this to be in line with what the United Nations Committee on the Rights of the Child issued in its General Comments on children's rights in juvenile justice in 2007. The United Nations Committee recommends the minimum age to be between 14 and 16.

Now, the Bill proposes that a child under 14 will not be criminally responsible. We would, personally, at the level of the MMM, have preferred that the minimum age to be at 16, but we are comforted that section 55 of this Children's Bill gives wide powers to the Director of Public Prosecutions to offer to a juvenile to enrol in a diversion programme rather than being prosecuted, and I really hope that in practice the DPP will not commit a child below 16 for trial.

This takes me, Mr Deputy Speaker, Sir, to probably the most controversial provision of this Bill, which relates to the minimum age of marriage. And what I am about to say reflects my own personal views on the matter and is not shared by several members of the MMM, and there is no party line on this particular aspect of the Bill.

The debate about minimum age for marriage in Mauritius is not new and has always raised passion inside and outside this august Assembly. May I remind hon. Members that the Children's Bill that was presented by Government last year did not provide for any change in the Civil Code relating to marriage of minors; it did not. So, the same Government last year did not advocate getting away with Article 145, as it is the case in the new Bill. It is perhaps worth briefly reviewing the evolution of the law in Mauritius in respect of marriage for minors.

The starting point, Mr Deputy Speaker, Sir, must be the *Code Napoléon* enacted in 1805. Article 144, then provided that, and I quote –

“L’homme avant dix-huit ans révolus, la femme avant quinze ans révolus, ne peuvent contracter mariage.”

So, the minimum age for marriage was 15 for women and 18 for men back in 1805. However, Article 145 of the Civil Code allowed a dispensation of age *pour motif grave* provided that the mother and the father and the minor consented to the marriage, and Article 148 then

provided, if there was a disagreement between the parents, the consent of the father would have been sufficient. The provisions of the Civil Code were reproduced in the Civil Status Ordinance of 1913 and remained on our statute books until 1981. In 1981, there was *la grande réforme du Code civil*. Article 144 of the Civil Code was amended to remove this discrimination between men and women and increase the age of marriage in the case of women to 18. This Article 144 has remained the same since 1981 till date. So, the general rule, even as at today, is that a child can only get married, whether he is a man or a woman, at the age of 18. That is the general rule.

On the other hand, Article 145 of the Civil Code was amended in 1981 to provide that a Judge in Chambers may, at the request of the *ministère public*, grant a derogation to a minor where it is, and I quote –

“nécessaire à l’intérêt de celui-ci.”

Mr Paul Chong Leung, back in May 1981, when he was introducing the Bill in Parliament, justified this provision in the following terms –

« Le projet prévoit une faculté pour le Juge en Chambre d’accorder une dispense d’âge lorsque cette dispense paraît conforme à l’intérêt du mineur qui veut se marier. Nous songeons ici particulièrement aux filles dont la situation particulière pourrait imposer un mariage urgent. Elles pourront donc le faire bien qu’elles n’aient pas atteint l’âge requis de 18 ans. »

However, three years later, in 1984, the law was further amended to give power to the Judge in Chambers to authorise a child below the age of 16 to get married where both the minor and his/her parent so consent. Intervening on the Bill, the then Attorney General, Sir Gaëtan Duval, stated and I quote –

“A la suite de la mise en œuvre de l’Article 145, un nombre considérable de personnes ont d’ailleurs demandé tant au Parquet qu’au Chef Juge lui-même, une modification de ce texte, notamment les pères et mères, ainsi que les représentants d’autorités religieuses. Nous avons voulu, M. le président, changer les mœurs avec une loi tandis que la loi doit se conformer aux mœurs, aussi proposons-nous d’amender ce texte.»

We have to ask ourselves, back in 1984, why is it that the law was amended to allow a Judge in Chambers to authorise a child even below the age of 16 to get married. Even below the

age of 16! Why? The answer is very simple, because in those days, in 1984, as shocking as it may sound today, it was not an offence to have sexual intercourse with a minor who was above the age of 12. That is why the law only criminalised *attentat à la pudeur* for children below 12, *bien sûr, les mœurs étaient différentes en 1984*. It is only in 1990 that the Criminal Code was finally amended to make it unlawful for any person to have sexual intercourse with a minor under the age of 16, irrespective of the consent of the minor. When the law was amended in 1990, the Civil Code also was amended so that the Judge in Chambers could no longer grant a derogation for children below the age of 16 to get married.

Mr Deputy Speaker, Sir, the debate about minimum age of marriage is not a new one and has always been passionate. The situation today is as follows; the general rule is that no one can get married before the age of 18. I repeat, 'the general rule', and this has been the case since 1981, the general rule, so, we are not inventing anything, we are not saying that as at today, minimum age to marry is 18. It has always been the case, the general rule; you cannot get married before the age of 18. However, Article 145 provides two exceptions for the general rule. The first exception is that where a person is above the age of 16 and below 18, he/she can get married with the consent of his/her parents.

The second derogation is where there are no parents or there is no one exercising parental authority, then a Judge in Chambers can allow the minor to get married where it is in his/her interest. So, the general rule, you cannot get married before 18 and the two exceptions are either with the consent of the parents or with the authorisation of the Judge. This is the situation today, *l'exception qui confirme la règle*.

Now, what the Children's Bill is proposing to do is to remove those two exceptions so that after the Bill is voted, even where the parents' consent, even where the child consents, even where the Judges want to authorise, that will no longer be possible. There would be no derogation in a case of any minor below the age of 18. In fact, it will be a criminal offence to force a child to be married or cause a child to be married civilly or religiously. And the offence is a severe one, punishable by a fine not exceeding Rs1 m. and by a term of imprisonment not exceeding 10 years. We have absolutely no issue, Mr Deputy Speaker, Sir, making it a criminal offence to force a minor to get married below the age of 18, but I personally think that we should have some flexibility, we should give some flexibility to a Judge to allow a child below the age

of 18 to be married in exceptional circumstances where it is clearly in the interest of the child to do so. The Judge, of course, will have to first ascertain the wishes of the minor and he would do that in camera in the absence of the parents of the child. The Judge will have to exercise his discretion judiciously only in the best interest of the child, and we are talking here about exceptional circumstances. We are not really talking about cases where parents are telling their child to get married. Rather, we are talking about cases where children are telling their parents, children are telling the Judge: "We want to get married."

So, I totally agree, Mr Deputy Speaker, Sir, that the child below 18 is not psychologically fit to be a wife or a husband. I totally agree that a child below the age of 18 is not psychologically fit to be a mother or a father. I totally agree that marriage is not a solution to teenage pregnancy, but the reality is that there are instances where marriage will be in the best interest of the minor. *Les mœurs ont changé* and studies have demonstrated that increasingly, children are becoming sexually active at a younger age and child pregnancy is a reality. Answering to a PQ last month, the hon. Minister Mrs Koonjoo-Shah stated that since 2018 to date, a total of 591 cases of early teenage pregnancies arising from sexual abuse have been recorded, out of which, 29 cases, where the father is a minor. 591 cases! And we are talking about cases of pregnancy resulting from sexual abuse, which means that child pregnancy, where there is consenting mother, consenting parents, is even higher than 591.

And the Ombudsperson for Children, in her last report published earlier this year, devoted a whole chapter on child pregnancies and even reproduced testimonies from pregnant child, really heart-breaking when you read the testimony of pregnant child. And what do we do in this case? What do we do where the child is pregnant? If the mother and the father are willing to get married and raise the child, should we deny them this right? If we deny them this right to get married, can we deny them the right to live together, in *concubinage* because this is what they will end up doing? If they are serious, if they really love each other and they have a child, they will live in *concubinage* and there is no provision in this Bill with regard to *concubinage*. What is the right of a minor in *concubinage*? If she is married, she has rights, her husband has obligations, the father will have to cater for her needs and the family. But there is no obligation when you are living in *concubinage*, there is no right to alimony, there is no right to be looked after, there is no right to be housed, to be clothed, to be fed. So, is it what we are encouraging on the ground that we do not agree that a child below 18 should get married? I agree a child below

18 is not physically and psychologically fit to get married. But because of this principle, can we tell our children, go and live in *concubinage*, where you have absolutely no right, where the husband can leave you anytime, and what about the new born child? Has anybody thought about the new born child? Section 4 of the Bill, the very first enabling provision provides that the best interest of a child shall be paramount and be the primary consideration. Is it in the best interest of a new born child that he would be born outside wedlock? Is it in the best interest of a child that he should not have a father to look after him? Is it in the best interest of a child that he should not have a family to live with, that he should not have any parents to live with? This is what we are envisaging for this child. Because we are saying the mother is unfit to get married, therefore, the new-born child is unfit to have a father, is unfit to have parents, is unfit to live in a family with a mother and a father. This is what this law is about today. This is why I personally believe that a judge should be given the power to allow a minor to be married in exceptional circumstances where it is in the best interest of the minor to do so.

Thank you, Mr Deputy Speaker, Sir.

The Deputy Speaker: Thank you very much. Hon. Minister Toussaint, please!

(10.13 p.m.)

The Minister of Youth Empowerment, Sports and Recreation (Mr S. Toussaint):

Merci, M. le président. M. le président, beaucoup a été dit sur ce projet de loi, donc, je vais essayer d'être bref. Si vous me permettez, M. le président, je vais démarrer par citer quatre phrases d'une célèbre chanson de Yves Duteil, 'Prendre un enfant par la main' –

«Prendre un enfant par la main ;

Pour l'emmener vers demain ;

Pour lui donner la confiance en son pas,

Prendre un enfant pour un roi. »

Les trois projets de loi que nous avons, ici, à l'Assemblée, ce soir, visent à mettre des paramètres pour justement prendre un enfant par la main. Ce sont des projets de loi qui visent aux développements et à la protection de l'enfant de la République de Maurice. Bien sûr, nous avons toujours des lois dans notre pays, il y aura toujours des lois, mais je fais un appel pressant aux adultes : ce sont les adultes qui doivent protéger les enfants. Beaucoup ont parlé de

différents cas où les enfants ont été victimes, et, certainement, un enfant de deux ans ne peut pas se protéger lui-même. Alors, au tout début de mon intervention, je l'ai dit, et je le redis, il y a des lois dans le pays, il y aura des lois qui vont venir, c'est le système mais c'est aux adultes de faire leur maximum pour protéger et faire à ce que nos enfants puissent s'épanouir. Et quand je parle d'adultes, M. le président, d'abord et avant tout, je parle des parents. C'est la responsabilité des parents. Il y a des lois, je le redis, mais c'est la responsabilité des parents de veiller au bon développement de leurs enfants. C'est la responsabilité des parents de veiller à ce que leurs enfants ne soient pas en danger. C'est la responsabilité des parents d'aimer et de donner beaucoup d'amour à leurs enfants, M. le président.

Les trois projets de lois sont: *the Children's Bill*, *the Child Sex offender Register Bill* and *the Children's Court Bill*. Trois projets de lois, travaillés, et qui ont pris leur temps, certes, et là, je pense à Madame la ministre, l'honorable Koonjoo-Shah, et toute son équipe ainsi que l'équipe de l'*Attorney General's Office* pour leur contribution, et qui ont fait de sorte à ce que ces trois lois soient devant nous aujourd'hui, ainsi que la contribution de Madame la ministre, l'honorable Fazila Jeewa-Daureeawoo qui a commencé ce travail. Cela montre que ce gouvernement, M. le président, a à cœur nos enfants.

L'honorable Uteem a exprimé son opinion, que je respecte, sur le *Children's Bill*, et par rapport au mariage à dix-huit ans. Il a fait la majeure partie de son discours sur ce point. Je le comprends mais je ne suis certainement pas d'accord avec lui.

Les enfants sont appelés dès leur naissance, jusqu'à un certain âge, à apprendre de la vie, à apprendre à l'école, à apprendre à devenir des êtres sociaux et ça prend beaucoup de temps. Pour certains, ça prend dix-huit ans, pour d'autres vingt ans, vingt-cinq ans. C'est un processus qui dure. Les enfants sont faits aussi pour apprendre dans les structures spécifiques, telle que l'école, pour bien sûr se préparer à l'avenir, pour devenir des adultes. Et durant cette période de l'enfance, de zéro à dix-huit ans, c'est une période où l'enfant doit se consacrer à son apprentissage ; c'est une période déterminante et c'est là que les parents doivent prendre leurs enfants par la main. Donc, c'est dans ce sens que je dis que je ne suis pas d'accord avec l'honorable député Uteem par rapport à sa position sur le mariage de l'enfant et, donc, dans ce *Children's Bill* qui est devant nous. Donc, il n'y aura pas de possibilité d'exception ou comme c'était dans le passé où un enfant avec l'accord de ses parents, etc. pour se marier. Non ! Dans

ma carrière d'enseignant, certes, j'ai rencontré pas mal de jeunes qui, malheureusement, sont tombées enceintes à l'âge de 15 ans, 16 ans, 17 ans. C'est un moment difficile bien souvent pour ces jeunes ; très difficile. Et nous, on se faisait un devoir dans notre établissement d'accompagner cette enfant parce qu'elle était encore une enfant, et c'était une enfant qui allait mettre au monde un autre enfant. Et ça, il faut bien le garder en tête. Nous, on se faisait un devoir d'accompagner cette enfant jusqu'à ce qu'elle puisse accoucher, de l'accompagner moralement, psychologiquement ; faire un accompagnement avec ses parents et l'aider jusqu'à ce qu'elle arrive au moment de son accouchement et aussi, bien sûr, l'aider à revenir à l'école après son accouchement. C'est un gros travail. Ce n'est certainement pas nécessairement le mariage qui serait la solution ; pas nécessairement. Donc, M. le président, Madame la ministre et toute l'équipe, le gouvernement, nous maintenons que le mariage avant l'âge de dix-huit ans ne doit pas y avoir lieu.

Je fais un appel aux jeunes qui nous écoutent, qui suivent ce débat, qui vont lire des comptes rendus après, de prendre leurs responsabilités, de faire attention et de se consacrer sur cette belle période de la vie qui ne reviendra jamais. Pour beaucoup c'est la meilleure période de leur vie : les amis, l'école, les activités, avec ce qu'on apprend à l'école, ce qu'on découvre, les fous rires dans les classes, les pains volés à sa copine, donc, cette période de l'adolescence c'est la meilleure période de la vie.

M. le président, dans le *Children's Court Bill*, le point le plus important aussi, c'est de donner un environnement *child-friendly*. Aller en cour est toujours stressant pour les adultes, maintenant imaginez pour les enfants. Donc, c'est de donner un environnement spécial à l'enfant pour que l'enfant puisse être là et expliquer ce qui s'est passé en tant que témoin, en tant que victime de façon correcte sans qu'il y ait trop de pression sur lui. M. le président, je l'ai dit au début de mon intervention, il y a des lois et les lois seront toujours là. Ce n'est pas seulement la loi qui fait que nos enfants seront protégés et que nos enfants bénéficieront de ce qu'il faut pour leur développement. Plusieurs ministères, plusieurs autorités, plusieurs ONG offrent des formations à nos enfants, à nos jeunes. Il y va de même de mon ministère; plusieurs programmes sont là pour la formation de nos enfants et de nos jeunes, pour ne citer que *NYCS*, le *Duke of Edinburgh's Award*, les *Life Skills Programme* et nous venons de mettre sur pied aussi un service d'écoute. Un service d'écoute est disponible pour tous les jeunes et il y va de soi, là, nous parlons aussi de très jeunes puisque nous parlons du *Children's Bill*. Un service d'écoute où ceux

qui sont dans le besoin, qui ont des difficultés peuvent nous appeler et peuvent prendre contact avec nos *Youth Officers* pour recevoir de l'aide.

Le développement de nos enfants passe aussi par les activités, M. le président, les activités sportives, les activités physiques. Nous avons le *MSC*, qui dans presque toutes les écoles primaires de l'île, fait le programme de *after school* ; donc des activités ludiques pour le développement de l'enfant. Des activités sportives telles que la natation scolaire aide l'enfant à apprendre à nager mais qui va beaucoup plus loin que ça, qui aide au développement et à l'épanouissement de nos enfants.

Je suis sûr qu'avec toutes ces activités et toutes ces formations, nous allons renforcer le caractère de nos enfants et de nos jeunes afin qu'ils puissent se protéger, afin qu'ils puissent réagir de façon positive quand il y a des soucis, afin que nos jeunes puissent être formés et connaître leurs droits, oui, leurs droits mais aussi leurs responsabilités parce que les enfants doivent savoir qu'ils ont aussi des responsabilités.

M. le président, je l'ai dit aussi, étant un enseignant de carrière, l'enseignant a un rôle très important dans le développement et l'épanouissement des enfants depuis la maternelle, depuis la garderie où on laisse les bébés quand les parents reprennent le travail. Ces personnels des garderies deviennent des mamans et des papas pour nos enfants et on ne peut pas, en parlant du *Children's Bill*, ne pas leur rendre hommage aujourd'hui.

Vous savez, M. le président, tous les enseignants reçoivent des formations. Madame la ministre de l'Education l'a dit à maintes reprises et nous sommes armés pour reconnaître, pour essayer de voir quand nos enfants sont en difficulté. Imaginez le dur travail d'un professeur de primaire avec des petits qui viennent de commencer l'école, à l'âge de 5 ans ; des petits qui ne sont pas encore habitués à voir autant d'étrangers dans leur vie. Imaginez le travail colossal que doivent faire nos enseignants, M. le président. Pour ça, je rends hommage à tous les enseignants qui s'occupent de nos enfants tous les jours.

Vous savez, M. le président, un jour, un de mes officiers m'a raconté l'aventure d'un jeune, dont je ne vais pas citer le nom, qui avait fugué pendant un week-end dans une région. On l'a cherché partout et vous savez où on l'a retrouvé à un certain moment? Présence d'esprit, quelqu'un s'est dit : allons voir au collège. Effectivement, cet enfant s'était caché dans le collège quelque part et on a pu le retrouver l'après-midi même, heureusement. Pourquoi? À la maison, ça

n'allait pas ; bien sûr, avec les problèmes des parents que nous savons tous. Nous n'avons pas besoin de répéter *on and on* ces choses-là. Il se sentait à l'aise, il se sentait en sécurité dans son collège. Pour vous dire à quel point que l'école, le collège devient une deuxième maison ou sinon une première maison ; à quel point que les enseignants deviennent des parents pour nos enfants.

Donc, M. le président, le but de dire tout ceci c'est encore une fois de mettre l'accent sur le fait que, au niveau du gouvernement, nous venons de l'avant avec des lois pour protéger les enfants, pour l'épanouissement de nos enfants. Mais je vais encore plus loin. Moi, je redis, je fais appel aux adultes qui entourent tous ces enfants, je fais appel aux parents, je fais appel aux professeurs, je fais appel aux officiers qui travaillent beaucoup avec les enfants dans le ministère de Madame la ministre, des officiers de mon ministère qui travaillent beaucoup avec des jeunes. Donc, je fais appel à ces adultes pour veiller à ce que nos enfants puissent grandir en bonne santé, puissent s'épanouir et puissent vivre leurs moments de l'enfance et de l'adolescence pleinement.

Aujourd'hui, comme beaucoup d'entre nous, ce sont des parents qui parlent. L'honorable Uteem en est un, d'autres en ont parlé. Nous intervenons en tant que parents. Nous sommes passionnés parce que nous avons nous aussi des enfants. Bien sûr, étant parent, moi aussi je suis passionné par ce débat et j'ai à la maison trois enfants dont une jeune demoiselle adolescente, dynamique, remplie d'énergie, pleine de talents et tout ceci comme je l'ai dit au départ c'est parce que, dès la maternelle, elle a eu les personnes qu'il fallait sur sa route, qui l'ont aidé à grandir. Elle a eu pendant le primaire des professeurs extraordinaires qui l'ont aidé à grandir. Elle a, en ce moment, au collège des professeurs qui l'aident à grandir et qui vont continuer à la faire grandir jusqu'à ses 18 ans, jusqu'à qu'elle aille à l'université et aussi pareil, même à l'université, il y aura des personnes plus grands, adultes qui vont l'aider à grandir.

M. le président, pour conclure, je voudrais rapidement parler de Saint Jean Bosco, le saint patron des jeunes; prêtre italien qu'on appelait aussi Don Bosco qui est né en 1815, qui est décédé en 1888 ; Saint Jean Bosco a dédié presque toute sa vie à aider les enfants des rues, les jeunes délinquants et autres groupes de jeunes défavorisés. Nous parlons du XIXe siècle, à l'époque déjà, en tant qu'éducateur, il a basé ses méthodes sur l'affection, la gentillesse, en

laissant de côté les punitions traditionnelles. Nous parlons ici qu'il est interdit de punitions, de punir les enfants et déjà à l'époque, Saint Jean Bosco était connu pour ces méthodes nouvelles.

Permettez-moi de conclure avec cette citation de Saint Jean Bosco justement, M. le président -

« Les enfants doivent être éduqués avec amour, amitié et responsabilité. »

Et, ceci est mon message aux adultes de la République de Maurice.

Merci, M. le président.

The Deputy Speaker: Thank you very much. Hon. Dr. Aumeer!

(10.33 p.m.)

Dr. F. Aumeer (Third Member for Port Louis South & Port Louis Central): Mr Deputy Speaker, Sir, thank you for giving me the opportunity to address the House. I wish, at the outset, to highlight the expectations of the general public with regard to this current Bill and I hope that at the end of the day all discussions and suggestions be fruitful as to safeguard the best interest of the Mauritian child and this Bill will be a tribute to the latest victim Ayaan.

Mr Deputy Speaker, Sir, I am pleased to note that orators before me, on both sides of the House, have participated in the discussions in a very concerned attitude and despite we may be repeating ourselves at times, and rightly so, it is not a matter on which people will do politics, and, in fact, it is a matter that concerns the very lives of our children and their reputation. I do thank the hon. Minister Mrs Koonjoo-Shah to have brought this Bill to the House.

Mr Deputy Speaker, Sir, as I said earlier, this law comes at a very sensitive moment and as one knows, we must keep in pace with the evolution of society as the laws do not remain static.

Mr Deputy Speaker, Sir, when I read the post mortem report in the media, how little Ayaan, the child who sustained such horrific injuries such as trauma to his inner parts, his intestine, a dislocation of his spinal code go unnoticed among his close surroundings. Such serious trauma cannot go unnoticed because it definitely makes a baby look sick, look ill and symptomatic. This was not sudden death. What we heard at the time of the death was a series of chronic ill savage treatment by those who were supposed to protect him. As the hon. Minister of

Health confirmed himself, that child did attend casualty with a traumatic shoulder pain. It was not followed up properly, mislead possibly by professionals and no adequate tracking for follow-up which in hindsight could have saved this baby.

Mr Deputy Speaker, Sir, we all must not be culpable complicit of events that we suspect and we must be part of whistle-blowers to prevent such tragic consequences and the Bill must ensure that whistle-blowers or informers are people like ourselves sitting in this House, have the necessary communication services available at hand to inform the relevant authorities.

Mr Deputy Speaker, Sir, Ayaan is the latest tip of the iceberg. We had the very unfortunate death of Ritesh Gobin, savagely murdered by cutter in Petite Rivière in front of her sister in 2018. Further back, in 2008, a two-year old baby was once again raped with multiple injuries at Mare La Chaux. Earlier this year, in March 2020, a child was killed by her biological mother and step father because of taking too much time to eat. In 2005, a biological mother – I am mentioning biological because we will also be talking about step-fathers and step-mothers later – setting fire to herself and her three children after drugging them.

M. le président, qui ne se rappelle pas du carnage à Brisée Verdière, 71 coups de couteau par un concubin enragé, tuant sa femme et sa fille. Nous faisons face à un cocktail explosif. Le cocktail est mélangé : le stress, l'infidélité, la jalousie, l'endettement, les doutes sur la paternité. Je fais donc un appel pressant au ministre pour s'assurer que son ministère ait un sérieux spécial pour identifier ces sociétés qui sont rongées par ces maux.

Mr Deputy Speaker, Sir, the main object of this Bill is, in fact, to repeal the Child Protection Act and to replace it with a more comprehensive and more legislative framework and to enhance the efficiency of our adherence to the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.

Mr Deputy Speaker, Sir, the Bill comes as a backdrop following the recent death of that child as I mentioned earlier due to ill-treatment committed by those who were supposed to protect him and it appears that this sort of problem is recurrent in certain unfortunate households. Surely, this Bill is very important, but will it be able to solve problems that are inherently linked to our society where there are white differences within the physical and social environment that different social classes live in.

Mr Deputy Speaker, Sir, many a times abuse to children are reported among step children either by step-father or step-mother and the Bill must be seen to address this particular aspect of the group of high risk children so that their biological father or mother may have a direct helpline to inform the relevant authorities since they themselves, particularly biological mothers, are sometimes at the mercy of their new partner and love can be blind at times.

Mr Deputy Speaker, Sir, I will now make a general comment with regard to the criminal responsibility of children. Let us not be blind by those unfortunate differences that exist in our country whereby our children do not all have the same opportunities in life. To hold a child above the age of 14 for any act of omission and not taking into consideration their problematic social surroundings they live in and the lack of education is a serious matter and must be looked into more details as any offence stipulated under the law may send the child to prison.

Je dirai, M. le président, un mot sur la responsabilité pénale. A 12 ans, est-ce qu'un enfant de cet âge peut être tenu responsable de ses actes et que lui met une si grande responsabilité qui peut être sanctionnée par une peine de prison s'il ou elle a commis une offense criminelle. Mais le *Bill* que nous discutons ne fait pas mention de responsabilité parentale et des circonstances trop souvent troublantes dans lesquelles ces enfants grandissent. Il faudrait bien des accompagnements psychologiques, sociales et surtout éducatives pour le bien-être même des enfants qui, malgré eux, se trouvent dans un cercle vicieux.

Mr Deputy Speaker, Sir, similarly, as in section 23, the Bill is very specific and clear as to offences committed to the sale of alcohol to a child. I humbly request that the sale of cigarettes which is well-known for its serious health hazard and risk be subjected to the same regulation if sold to those under the age of 18. In the same context, the law must attempt to prevent the sale of tobacco to youth and punish the vendor for compliance and there should be a set of laws known as the PUP law that penalise the youth for Possession, Use and Purchase.

Mr Deputy Speaker, Sir, as reported in the very highly esteemed British medical journals couple of years ago, cigarettes do influence youth smoking behaviour and in certain cases lead to an overt acceptance of smoking synthetic cannabis or even heroin. If stores need a licence to sell beer and not to the under 18, then why not amend the law for a similar legislation of licencing with regard to the sale of cigarettes.

Mr Deputy Speaker, Sir, it is important to note that we are debating a Bill which has at its essence to intervene once an offence has been committed. But there is no mention as to any rehabilitation measures that should be taken to prevent such recurrences. Surely, the Ministry of Gender Equality and Family Welfare is trying to reassure the society that security of the child is of paramount importance. However, are we not making children bearing a responsibility that the society at large should uphold?

Mr Deputy Speaker, Sir, a few words on the care and protection for children in need. As it has been mentioned before, it does exist in the law whereby non-assistance to a person in danger is an offence under the penal code and I join the former Minister of Justice, Women's Rights and Family Affairs and former Ombudsperson for Children, Mrs Shirin Aumeeruddy Cziffra that it should be mandatory reporting for person performing professional or official duties such as medical practitioners, dental surgeon, teachers to ensure cases of child abuse do not go unheeded. The Bill must see to it that the identity of these people are protected and also not be frightened by severe sanctions.

Mr Deputy Speaker, Sir, I now want to make some comments about the Bill making provision to prohibit the marriage of children under the age of 18. Unfortunately, hon. Minister Toussaint has left; I did listen very carefully to what he had to say about the Bill, and I do not subscribe to his views. In fact, I have the same line of thought as hon. Uteem, and this is a personal view, not a party line. There is consensus as to protect the child against early and forced marriage before the age of 18, but I am of the opinion that there are exceptional circumstances which have to be considered. We must be careful that the amendment to the law does not encourage some youngsters, aged between 16 and 18, to live as husband and wife in *concubinage* since the law under the Criminal Court Act does permit them to have sexual relationships if both parties are consensual above the age of 16. Mr Deputy Speaker, Sir, there surely must be a better way to find means and ways of legalising the situation. As the Criminal Court Act stands, any two partners consenting to sexual relationship above the age of 16 have not in any way infringed the law. However, as it may happen, either by pure inadvertence, carelessness or deliberate action, such act may entail a pregnancy. The question arises: if that couple then decides to continue their relationship in a legal manner, that is, as husband and wife, what avenue is opened for them in that Bill?

Mr Deputy Speaker, Sir, this is where the Code Napoleon Article 147 is important as to dispensation by a Judge. I do appreciate, and I sincerely say that some girls get pregnant on purpose, deliberately to get married, as it has happened before, and will go in front of the Judge to get dispensation on the belief that it will be automatically accepted. Jurisprudence before has said, as I quote, “this is an abuse of the law”, and as per the ruling of a couple of Judges in the past, dispensation was rightly rejected. Therefore, the rulings of Judges have proven that in exceptional cases dispensation can be given.

Mr Deputy Speaker, Sir, reasons for dispensation in the current Bill, if it were to be accepted, will be profoundly human, particularly in the case of a non-deliberate, unexpected pregnancy between the age of 16 and 18. However, I totally agree and support that dispensation given before on the basis of parents’ choice, culture, tradition, and the choice of minors must be waived. Mr Deputy Speaker, Sir, the sole authority with regard to dispensation in case of such exceptional circumstances must be the Court, whereby the Judge will determine if that child is physically and mentally matured for marriage and that the marriage will not jeopardize that child’s health and well-being. While there is general agreement and consensus to specify the minimum age of marriage at 18 by law and to overwrite any customary beliefs and traditions, it is also true that we must consider the exceptional circumstances that I have described earlier.

Mr Deputy Speaker, Sir, our Criminal Court considers it illegal to have sexual intercourse under the age of 16. It is, therefore, implied that those between the age of 16 and 18 are not considered to have committed any offence if there is consent between both parties. It is important to understand that the young mother below the age of 18, be it by a couple of months or few weeks, will be labelled as a single mother, with all the stigmatization that it carries, as she cannot be registered as a legal wife since the law will not allow her to have a registered marriage below the age of 18, and I’m here talking, once again, about exceptional circumstances and not those who are going to use a deliberate act to bypass the law.

Mr Deputy Speaker, Sir, we must also realise that, in this country, we have high values of our culture and many times, as a gynaecologist by profession, I have personally witnessed young girls between the age of 16 and 18 being, unfortunately, pregnant, and attend my practice during the early days of pregnancy with both families present, and there is deep eagerness from both sides to either have a religious marriage, which is now being repealed, or a civil marriage so as to

avoid the stigma and maintain the owner of both families so that the label of single mother of sex before marriage is not assigned to them.

Will the child born out of marriage, because of maternal age less than 18, have the same rights and dues as a legitimate child out of marriage in conformity with the Civil Law? This question remains to be answered, particularly when sometimes inheritance is the cause of concern.

Mr Deputy Speaker, Sir, I have gone through the proposed Children's Bill and though it makes room for the protection of the child, I have not seen any particular clause with regard to the rights of an unborn child - and I mention this specifically - whose mother has been the subject of physical abuse of the partner, particularly in the last trimester of pregnancy and, unfortunately, due to that trauma ends up with a premature delivery of an unfortunate baby. That premature baby may, at times, end up with serious and chronic lifetime disabilities due to the premature delivery caused specifically by the trauma sustained by the mother from the partner. I wonder whether this issue must be addressed and I have seen many of these cases, although rarely, and these partners, in my opinion, must be held accountable for their acts and severely punished by law. Mr Deputy Speaker, Sir, the law must be harsh and extremely severe to those individuals. I cannot see any reason as to why they should be allowed back in the community; they should remain behind bars for the rest of their lives, and I hope the Bill will ensure that they never harm again, under any circumstances.

Mr Deputy Speaker, Sir, similarly, section 23 of the Bill is very specific and clear as to offences committed and I have mentioned before that the PUP law penalises the youth for possession and use of cigarettes.

Mr Deputy Speaker, Sir, I will now comment on the Child Sex Offender Register Bill. The CSO Register, as to be known in Part II, section 3 subsection 2, mentions, amongst others, monitoring and tracking of persons in the community; of registrable offender. I note the extensive details of the reporting obligations of the registrable offender which will, undoubtedly, contribute to his monitoring and trafficking of within the community for a period of 8 to 16 years depending upon the offence caused. I strongly suggest that these offenders be subjected to the wearing of an electronic bracelet for the whole period described or at least of a minimum of their first five years after serving their sentence.

Mr Deputy Speaker, Sir, with regard to the access to the CSO Register by an authorised officer, the designation of such authorised officer must be more specific as to whether they are from the Police Department or the Child Services Coordinating Panel or from the Office of the Ombudsperson for Children. Mr Deputy Speaker, Sir, in the same context of the CSO Register, section 5, subsection (a), the area of location where the registrable offender committed the offence, in my opinion, must be included in the Register because with advanced monitoring system, whether the offender is present in that area, it will be a cause for alarm.

Mr Deputy Speaker, Sir, suspension of reporting obligations of a registrable offender at section 18, subsection 2, whereby the Commissioner of Police may, on his own initiative or on the application of the offender, suspend the reporting obligations if he or she, I mean the Commissioner of Police, is satisfied on reasonable grounds. It appears that the Commissioner of Police will have unilateral power to suspend the reporting obligation, and one must not forget recent events where the Commissioner of Police, having the power conferred to him and unilaterally gave instructions for the express issuing of a passport to one notorious individual M. B., based on his own satisfaction of reasonable grounds, and the latter, as everyone knows in this House, was involved in major drug haul couple of weeks later.

Mr Deputy Speaker, Sir, I, therefore, recommend that such decision of suspending the reporting obligation must be done in consultation with the Ombudsperson for Child Protection, the Chairperson of the Child Coordinating Panel. Such decision must not lie within the Commissioner of Police unilateral powers.

Mr Deputy Speaker, Sir, finally as a father, like many here, but also by profession as an Obstetrician and Gynaecologist where I assist a lot of women delivering babies and bringing these little angels to life, who have committed no harm, no fault, innocent, I humbly request the Minister, on behalf of these babies, to see to it that once the Bill is passed and become law, there is intensive follow-up of its implementation so that no children, again, should suffer any ill-treatment or abuse.

Mr Deputy Speaker, Sir, to conclude, I will mention the declaration that Heads of State and Government made at the first World Summit in 1990, and I quote –

“There can be no task nobler than giving every child a better future.”

Thank you.

The Deputy Speaker: Thank you very much. Hon. Minister Hurdoyal!

(10.55 p.m.)

The Minister of Public Service, Administrative and Institutional Reforms (Mr T. Hurdoyal): Mr Deputy Speaker, Sir, I would like at the very outset to thank the hon. Prime Minister for his unflinching support which has been instrumental in the formulation of the Children's Bill. That will remain a landmark in the history of Mauritius.

It is the first time that a Government is attaching so much importance to the protection and welfare of our children. This Bill has been well received by all the children related NGOs, the international community and the Mauritian society at large.

It is a forward-looking piece of legislation that would greatly contribute towards the creation of a conducive environment for the growth and development of our children as responsible adults of tomorrow.

With this Bill, Government is giving the assurance that children in our country will be treated with respect, dignity and care, and no longer have to bear the brunt of the irresponsible and neglectful parents.

Mr Deputy Speaker, Sir, our children have the right to survive, to be safe, to be heard, to receive adequate care and to grow up in a protective environment, and this is what we are doing with the introduction of this Bill.

Mr Deputy Speaker, Sir, I am very glad to bring my contribution to the Children's Bill which is presently being debated in this august Assembly. I commend my colleague hon. Mrs Koonjoo-Shah, the Minister of Gender Equality and Family Welfare for introducing this Bill, which aims at enhancing the protection of our children in this country and promoting the physical, psychological, intellectual, emotional and social development of all Mauritian children.

A new Children's Bill was more than ever necessary to address the shortcomings...

The Deputy Speaker: Hon. Member...

Mr Hurdoyal: ...in the existing Children Protection Act.

The Deputy Speaker: Please continue. Just be mindful! I am allowing you; continue please!

Mr Hurdoyal: ...and to cater for the changing nature of offences being committed against our children.

Mr Deputy Speaker, Sir, the recent case of Ayaan Ramdoo, a little child of 2 years, is a horrifying one that has turned the whole country and is a wake-up call for all authorities, NGOs and civil society in this country to devise appropriate strategies and action plan to better protect our children who represent the future of this country. This hideous and barbaric act of torture inflicted upon the little Ayaan Ramdoo by nobody else other than his parents is an indication of the erosion of family values and the degradation of the Mauritian society. Hence, it is imperative for all stakeholders to work together and combine their resources to better protect and promote the welfare of our children.

Mr Deputy Speaker, Sir, the objective of the Bill is, amongst others, to give effect to the various provisions of the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child. In so doing, Mauritius will be compliant with international conventions and promote the image of the country as a modern State that scrupulously respects the rights of the child and promote his welfare.

Precisely, this Bill makes provisions mainly for –

- “(a) the better care, protection and assistance to children;
- (b) the respect and promotion of the rights of children and for the protection of the best interests of children;
- (c) the setting up of structures, services and means for promoting and monitoring the sound, physical, psychological, intellectual, emotional and social development of children;
- (d) the setting up of a Child Services Coordinating Panel for the coordination of all activities relating to the implementation of the present legislation;
- (e) prohibit marriage of children under the age of 18, and
- (f) a child under the age of 14 not to be held criminally responsible for any act or omission;”

Today, with the enactment of this Bill, Government is clearly demonstrating its commitment to create an environment where all boys and girls can enjoy childhood, in which they are loved, respected and cherished, in which their safety and well-being are paramount, and in which they can develop in peace and dignity.

Mr Deputy Speaker, Sir, it is worth highlighting that it is the first time that a Bill outlines the responsibilities and rights of parents towards his child. Clause 7(2) of the Bill places a legal obligation upon the parent to provide his child with basic needs and take decision relating to the child's day to day upbringing. This provision of the Bill urges parents to take their full responsibility towards the nursing of their baby, the safety and security of the child, his education and health, and upbringing in the society as a responsible citizen.

Mr Deputy Speaker, Sir, a family is the first line of protection for children. Parents are responsible for building a protective and loving home environment. It is, therefore, imperative that in the family, the child is fully protected so that he can survive, grow, learn and develop to his fullest potentials. In the Bill, provision has been made for the Protection Division of the Children's Court to carry out an assessment of a child's health or development or the way in which the child has been treated if it is suspected that the child is being ill-treated in the family. Based on the assessment, the Children's Court may issue an emergency Protection Order where there is reasonable ground that the child is suffering or likely to suffer from harm in the family and authorise his placement in an alternative care where the child will be protected and taken care of.

Mr Deputy Speaker, Sir, it is the first time that a Bill proposes the setting up of a Child Services Coordinating Panel for coordinating children-related public services and monitoring Government activities in relation to the promotion of child welfare. This panel will promote the necessary synergy among NGOs, Government Agencies and Private Sector Initiatives to develop common strategies and activities to better protect the right of the child. It will also entail a whole of Government approach towards the wellbeing of the child.

Mr Deputy Speaker, Sir, these Bills take a multi-disciplinary approach towards the protection of our children by broadening the nature of offences under Part III thereof. The Bill addresses the growing crimes being committed against our children, for instance, no parent can, after the enactment of this Bill, force or oblige a child to marry civilly or religiously. The

derogation that exists in the current legislation and which has been a bone of contention for years is being removed in this Bill and will become a relic of the past. This measure is correcting a longstanding injustice against our children and also giving them their dignity in society. We firmly believe that the place of all children under the age of 18 is at school and is not shouldering parental responsibilities. Discrimination against a child is the greatest injustice that can be committed against a child because in the long run, it generates violence, abuse, juvenile delinquency and frustration amongst the youth. This Bill is addressing this scourge by introducing a major shift in the way our society cares for our children. The Bill makes it an offence to discriminate against a child on the ground of the child's parents, race, cast, place of origin, political opinion, colour, creed, sex, language, religion, property or disability.

Mr Deputy Speaker, Sir, it is a fact that for years, there has been numerous cases of abduction by one of the parents whereby the child is deprived of the love and care of the other parent while at the same time, causing hardship and mental stress to the victims. These Bills make it clear that certain act will be a major offence with a commensurable heavy penalty.

Mr Deputy Speaker, Sir, bullying is a growing phenomenon among school children and this impacts negativity on the emotional and psychological development of the child and in extreme cases may even result in death. Clause 26 of the Bill addresses this problem and makes provision for heavy penalties of up to Rs1 m. and to imprisonment not exceeding 10 years to perpetrators of such offence.

Mr Deputy Speaker, Sir, we have to reckon with the fact that in our society, we have children who are victims of neglect or suffer from behavioural, social adaptation problems since their early childhood. As a caring Government, it is our duty to ensure that these children are given due attention and the right treatment so that as they grow, they can fully integrate the mainstream of the society and contribute positively towards the well-being of the community. I am happy to note that the Sub-Part IV of the Bill intensively elaborates on the Child Mentoring Scheme which will go a long way in providing the right care and protection to our children in distress or encouraging behavioural and social adaptation problems.

Mr Deputy Speaker, Sir, with your permission I would like to also contribute on the Children's Court Bill as well as the Child Sex Offender Register Bill. Currently, all cases pertaining to children are dealt within the normal court which very often take too much time in

view of the number of cases and the children are not at ease to depone properly as the environment is tense and has a psychological impact on the children. Accordingly, many criminal cases involving child offences are dropped either because the victims refused to attend court as witnesses or are scared of the environment. As a caring Government which has at heart the interest of our children, we are coming forward with a Children's Court Bill which has, as a main objective to establish a children court to hear and determine cases involving children. The Court will comprise two main Divisions –

1. A Protection Division to hear application in respect of child protection matters, and
2. A Criminal Division to hear and determine sexual offences against children and offences where children are witnesses thereto.

This new Court will be staffed with professionals to assist the children to depone in a child-friendly environment. The Bill also makes provision for proceedings involving a child to be conducted in a language which is simple and easily understood to the child, bearing in mind the age and the level of maturity of the child. Moreover, there will be special arrangement in the Court Room to accommodate the child to hear the child's evidence and for the child to be accompanied by his parent or another person where the parent is the alleged perpetrator of the offence committed on the child or the court considers that it is not in the best interest of the child to be accompanied by his parent.

Mr Deputy Speaker, Sir, the Court will have a duty to ensure that the proceedings are carried out in such a manner that gives due respect to the child's dignity and level of maturity. The Court shall also create the necessary condition for the child to give any evidence against a perpetrator at his own will and without fear. Moreover, the Court shall ensure that the child is treated in a caring and sensitive manner, taking into consideration his personal situation and special needs, age, gender, disabilities and level of maturity.

Mr Deputy Speaker, Sir, the setting up of the Children's Court will no doubt give a new dimension to the protection of our children in Mauritius. It will ensure that cases of offences involving children are dealt within least delay as experience has shown that when a case takes too long, the victim tends to give up or refuses to give evidence in Court. Consequently, many perpetrators go scot-free.

Mr Deputy Speaker, Sir, child sexual abuse is a serious problem around the world and it causes significant and long lasting harm to the child victims and to their families. In Mauritius also, sexual offences against children are assuming alarming proportions. According to Statistics Mauritius, 456 children were sexually assaulted last year compared to 361 in 2018. Today, our children are at greater risk as they have easy access to social media, which are being used by potential predators to lure their victims. It is of paramount importance that we identify and register all those persons who have been convicted of committing sexual offences against our children. In this context, the establishment of a Child Sex Offender Register will bring a quantum leap in our endeavour to protect our children from sexual predators.

The Register will not only help to reduce and prevent the risk of sexual offences against our children, but will also help in the monitoring and tracking of persons in the community who have been found guilty of committing sexual offences against children.

Mr Deputy Speaker, Sir, the introduction of these three Bills at one go bear testimony to the seriousness and determination of this Government to eradicate child abuse and ill-treatment of children in our society. The wide-ranging measures proposed in this Bill will not only contribute towards protecting the rights of the children and promoting their welfare, but also dissuade potential perpetrators from harming our children. The heavy sentences in terms of fine and imprisonment are strong signals that this Government will no longer tolerate any form of violence against our children.

Before I end, Mr Deputy Speaker, Sir, let me quote Nelson Mandela. I quote –

“Our children are our greatest treasure. They are our future. Those who abuse them tear at the fabric of our society and weaken our nation.”

I thank you all for your attention.

The Deputy Speaker: Thank you! Hon. Ms Jutton, please!

Ms T. Jutton (Second Member for Vieux Grand Port & Rose Belle): Mr Deputy Speaker, Sir, at the very outset, allow me to commend the hon. Kalpana Koonjoo-Shah and her team for coming up tonight with a long-awaited Children’s Bill as well as the Child Sex Offender Register Bill and the Children’s Court Bill, as well as the hon. Fazila Daareewoo for her unflinching efforts put into the conceptualization of this Bill with her team, of course, under

the visionary leadership of our hon. Prime Minister who works relentlessly for our most vulnerable, and his commitment needs no explanation as his actions reflect it all. Allow me here to quote some of his words which he said today itself at the International Day for the Disabled in creole –

“mo l’objectif c permet a sak mauricien et a sak mauricienne realize zot reve.”

I hope there needs no translation into English or should I translate it to English? No? Okay.

Mr Deputy Speaker, Sir, it was high time that this Bill be presented to the House because we need to protect our children. The most vulnerable component of society, and we know Mr Deputy Speaker, Sir, how vulnerable our children are and that, irrespective of class and other differences.

Mr Deputy Speaker, Sir, before I delve in the provisions of each of the Bills, I would like, with your permission, to make a few general observations which I am sure would be of concern to one and all.

M. le président, c’est un fait que notre société est malade ; je devrais dire gravement malade même, car nos enfants ne sont pas à l’abri des agressions de toute sorte, physiques, émotionnelles et sexuelles. C’est un fait que des lieux qui devraient servir de havre de bonheur pour nos enfants tels le foyer familial, nos établissements scolaires, du pré-primaire au secondaire, en passant par le primaire, nos aires sportifs ainsi que certains lieux de culte sont devenus des lieux de prédilection pour des prédateurs qui ont pour cible ceux qui sont les plus vulnérables de notre société. Sinon, comment expliquer que nos jeunes enfants, que dis-je, nos nourrissons, sont exposés à des agressions les plus viles, les plus abominables, monstrueuses même, M. le président. Comment concevoir le fait qu’un père, qu’un géniteur qui se permet de donner libre cours à ses pulsions bestiales pour agresser sexuellement son bébé de quelques mois seulement, jusqu’au point où les organes vitaux de ce petit ange subissent des dysfonctionnements permanents ? Et justement, M. le président en parlant de pulsions bestiales, pas plus tard qu’hier, dans la soirée, j’ai lu sur le site web du *Défimedia* qu’une pensionnaire de 73 ans a été agressée sexuellement par nul autre que son fils de 49 ans et qu’elle a lutté de toutes ses forces, mais en vain, la pauvre ! Mais tout ça nous porte à réfléchir, M. le président sur la dégradation des valeurs et même du rôle de l’enfant et celui des parents.

Revenons aux enfants. Comment ne pas faire état ici de cet acte de barbarie perpétré quelques semaines de cela, où les bas instincts d'un beau-père le poussent à sauvagement agresser à mort le petit Ayaan ? M. le président, si ces actes d'agression sur nos enfants constituent des actes impardonnables, il y a d'autres drames aussi graves qui nous guettent. Il s'agit là de ce qu'il convient d'appeler une apathie collective, pour ne pas dire pathologique, de la part d'une bonne partie de la population. Une apathie, M. le président, qui frise parfois même le voyeurisme sociétal.

Un autre drame, M. le président, constitue ce que j'appellerai une amnésie généralisée, qui nous pousse parfois à ranger trop vite aux confins de notre mémoire collective ces maux qui rendent notre société de plus en plus inexorablement vulnérable. Voilà, M. le président, ce sont là les faits de notre société et il convient de ne pas se voiler la face.

Mr Deputy Speaker, Sir, allow me to present here my heartfelt sympathies to all the bereaved families, and I take this opportunity to also present my heartfelt sympathy to a marvelous 'shero', WPC Dimple Rughoo, while reasserting my firm belief that justice shall prevail.

M. le président, toute société qui se respecte, toute société digne doit pouvoir offrir une protection sans faille à ses enfants, et c'est précisément ce que cherche à faire ces projets de loi.

Mr Speaker, Sir, allow me here to also commend the tremendous job being done by the Ombudsperson for children (OC), and the recent publication of the insightful Annual Report. For instance, some of the activities which are being carried out include works being done at Résidence Anoushka with the firm aim of protecting the children and also having a kind of dynamic partnership between community members and child professionals.

Mr Speaker, Sir, allow me here to quote the words of Kofi A. Annan, I quote –

“There is no trust more sacred than the world holds with children, there is no duty more important than ensuring that their rights are respected, that their welfare is protected and that their lives are free from fear and want and that they can grow up in peace”

It is contained in the promise that children are not objects and are verily vulnerable. They deserve to be heard, to be cared for and to grow up in a safe environment, and it is the duty of world leaders to cater to their needs and to their safety.

A historic decision was taken in the 90s by adopting an international legal framework, the United Nations Convention on the Rights of the Child. The latter affirms that childhood is distinct from adulthood and is a special protected time in which children must be allowed to grow, learn, play, develop and flourish with dignity. The Convention, indeed, became one of the most ratified human rights treaty over the years and along the same veins, the Child Protection Act was enacted in Mauritius in the year 1994-1995 and has been enforced till now.

But, today, Mr Speaker, Sir, we are coming up with a revised version of the Child Protection Act so as to give our children a firmer and stronger protection allowing a more integrative approach to the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.

We are pleased to come up with this Children's Bill which seeks to respect and protect the rights and best interests of a child by ensuring a fair and equitable treatment as well as putting a stop to discrimination.

The new Bill proposes to make amendments on, *inter alia*, the following –

- (a) ill-treatment of child;
- (b) responsibilities of parents with respect to abandonment and/or even abduction of a child;
- (c) sexual abuse;
- (d) prostitution;
- (e) child grooming;
- (f) child pornography;
- (g) sale of alcohol to child, amongst many others.

According to the Child Protection Act, the definition given to a child is any unmarried person under the age of 18. However, it remains a fact that there were several cases where

children under 18 were married and, therefore, not protected under the law. The new legislation hereby caters for this loophole by redefining a child as a person under the age of 18.

Mr Speaker, Sir, this year, we have witnessed several cases of bullying and violence in our schools and this has, indeed, become a very pertinent issue. Using a rights-based approach, this Bill endeavours to ensure that our children do not have traumatic experiences of exclusion from mainstream as this disrupts calling family life, health care, social networks and feelings of confidence and stability.

Such experiences can also play into a cycle of intergenerational disadvantage. Children experiencing undesirable experiences often miss out the opportunities that others have making them more likely to experience worst situations as an adult which brings me to Clause 26 of the Children's Bill which is on bullying. Mental emotional well-being counts even more than physical well-being because, Mr Speaker, Sir, the wounds of childhood last for a lifetime. The person carries the burden until his grave. *Le trauma qu'un enfant porte en son cœur et âme le suit toute une vie et a des répercussions en tant qu'adulte. Comme d'ailleurs l'a dit mon collègue, l'honorable Dr. Jagutpal*, who said that victims suffer from behavioural problems and necessitate psychological treatment.

According to independent studies, children affected by bullying suffer throughout their lives and even the perpetrators bear the brands as adults. To protect our children, Mr Speaker, Sir, as per the Clause 26: "No person shall bully a child"

Moreover, the Bill goes further to stipulate that any person, who does so, shall commit an offence and shall, on conviction, be liable to a fine not more than one million rupees and to imprisonment for a term not exceeding 10 years. It is also good that recommendations be made for every educational institution to adopt policies to prevent acts of bullying, intimidation or harassment which are likely to result in the substantial disruption of a child's educational ability.

According to data from the UNESCO Institute for Statistics, around 263 million children, adolescents and youth worldwide which means one out of every 5 children are out of school and become verily exposed and vulnerable.

Mr Speaker, Sir, I was speaking to Her Excellency Christine Umutoni, the UN Resident Coordinator in Mauritius, who shared her own difficult childhood days in her motherland where

her parents, at first, had to choose between sending her to school and her brother, and her own determination perseverance albeit the difficult times led her to where she is today.

Well, fortunately, our country has more seats in primary and secondary schools of the actual number of children. Our children have got the need for healthy development and to thrive and flourish. On top of the universal access to free primary and secondary education, today undergraduate studies are also free. Thanks to the vision of our hon. Prime Minister.

Mauritian children can have access to good primary healthcare while also enjoying a relatively high standard of living. If they are well surrounded in safe school environment, this protection is not available to all families. Vulnerable children must be protected from neglect and from abuse of all sorts. They must be empowered so that they identify and report any attack that they face.

Therefore, this Bill aims at providing a holistic prevention and response to the protection issues experienced by children. It provides a framework to prevent children to be harmed. It tightens the security around our children. Of course, this new Bill builds on existing Child Protection Schemes and works in partnership with children, their families, local authorities to strengthen child protection assistance and community-based mechanisms.

This Bill is not only about children, it is also about adults because it warns and it condemns ill-intentioned adults who intend to harm children. It proposes concrete actions to ensure that adults live up to their positive obligation to ensure respect for every child which is a fundamental human right. Therefore, I do invite all the adults to ensure that they are fully aware of all the provisions of this Bill. No one should fail in his or her responsibilities towards every child of the Republic of Mauritius.

Mr Speaker, Sir, we strongly believe that the effectiveness with which our education system works allows children to transform the circumstances of their birth and to take control otherwise in a truly progressive education system.

Over and above the clauses mentioned to address the weaknesses of the Child Protection Act, this Bill also makes provision for the setting up of a Children's Court vested with the jurisdiction to hear and judge cases concerning children and consisting of a Protection Division and a Criminal Division - the rationale being to safeguard the well-being, physical, emotional and mental of the child in a child friendly environment. There are still children who do not fully enjoy the human rights and the cases of children who have been assaulted often become the fodder of the unscrupulous tabloids. So, the affected children have to suffer again and again in the Courts. Well, this will no more be the case now. *C'est ce que ce projet de loi vient corriger.* It is also to be noted, Mr Deputy Speaker, Sir, that no child under the age of 14 shall be arrested or prosecuted. Instead, the focus will be on the reform and rehabilitation of the child. All these above clearly demonstrate that our Government is taking the firm commitment to take all legislative and administrative procedures required to create an environment in which all our children are able to thrive. Mr Deputy Speaker, Sir, this reminds me of the words of Mahatma Gandhi, and I quote –

“A nation's greatness is measured by how it treats its weakest members.”

This Bill promotes the interest of every child. The aim is indeed to strengthen the bonds between the child and the society. Undoubtedly, it guarantees the child's right to survival in an environment where adults have less and less time to spend with the kids, while offenders have access to a larger array of tools to attract those innocent beings.

Speaking about offences, Mr Deputy Speaker, Sir, clauses 19 to 22 of the Children's Bill deal extensively with such offences. Mr Deputy Speaker, Sir, the African Committee of Experts

on the Rights and Welfare of the Child, which is actually an organ of the African Union, has been established to monitor Protection of Children's Rights on the continent and, with the COVID pandemic, they expressed great concern on the ongoing global outbreak and the devastating impacts on the overall rights and welfare of children across Africa. Reports indicate that millions of children are likely to face increasing threats to the safety and well-being, including gender-based violence, exploitation and separation from families.

Coming to Mauritius, Mr Deputy Speaker, Sir, allow me here to point out the work done by the Ombudsperson for Children again, which put considerable efforts to uphold the children's right during the national confinement period and, indeed, together with the Ministry, there was a close monitoring of the protection of children's rights, especially in residential care institutions. There were also negotiations and a lot of collaboration so that the staff working in those institutions be given the Work Access Permit during the pandemic and the lockdown so that the children who are most vulnerable do not suffer. Whilst during the confinement, use of internet and digital learning is the positive side of the coin, the other side of it remains over exposure to digital contents and the risk of abuse, and not just physical or verbal abuse, but, today, emotional abuse and especially cyber bullying is such a strong example. This is why parents also have this responsibility to keep an eye on these.

This Bill, Mr Deputy Speaker, Sir, is not only about protection of our children, but it is about saving their lives because our children are also the future of this country. The aim is not to harm anyone but to actually strengthen the bonds between the child and the parent, the child and the authorities, the child and society.

This Bill, using a rights-based approach endeavours to ensure that our children do not have traumatic experiences of exclusion and also can have a proper childhood and then from childhood, to teenage, turning them into responsible teenagers and from responsible teenagers, into rightful citizens of the country.

M. le président, aujourd'hui nous débattons dans cette Chambre pour les droits de nos enfants et nous devons réfléchir comme un père, une mère, un frère et une sœur. So, allow me to end on this quote from Nelson Mandela, and I quote –

“History will judge us by the difference we make in the everyday lives of our children.”

So, let us all together contribute in making this world a better place *pour les enfants de notre patrie, de notre génération et les autres à venir*. So, let us all together champion this cause and be the game changer, leaving this legacy behind, *et comme chanté par Jane Constance ce matin, ‘s’il était temps d’écrire notre histoire’*, let us leave this legacy.

Thank you, Mr Deputy Speaker, Sir.

The Deputy Speaker: Thank you very much. Hon. Abbas Mamode!

(11.38 p.m.)

Mr S. Abbas Mamode (Second Member for Port Louis Maritime & Port Louis East): Mr Deputy Speaker, Sir, the Children’s Bill and any other Bills or anything related to the children of our country, our children should always be treated with the extreme seriousness. The three Bills presented in the House by the hon. Minister of Gender Equality and Family Welfare, if voted, will in a way or the other contribute in shaping our kids, and hence, adults of tomorrow. We waited long for this Bill, and it is here; it is a good sign, Mr Deputy Speaker, Sir. Yes, the Bill makes some good provisions and some less good, but I believe the purpose of this debate is to make it even better. Hence, I will share my views and humbly make some suggestions. But not to forget, I will seize this opportunity to also thank previous hon. Ministers in the likes of former Minister of Gender, especially my very good friend, Mrs Aurore Perraud, for their contribution and for their continuous support and effort to fight for the welfare and presentation of this Bill to the House.

Je ne vais pas tourner autour du pot à énumérer les points de mes autres collègues parlementaires des deux côtés de la Chambre qui ont profondément élaboré sur cette législation. M. le président, je ne suis ni psychologue, encore moins sociologue, mais je suis un père de famille, ainsi que d’autres membres de cette auguste Assemblée. J’ai consulté des opinions avisées où là il y a quelques points qui ne sont pas clairs, et je demanderai à la ministre de se pencher dessus.

Mon premier point, Madame la ministre, concerne la séparation des pouvoirs entre l’Exécutif et le Judiciaire. En tant que parlementaire, on se demande comment, en imposant dans ces projets de loi aux magistrats et aux juges des amendes et des peines d’emprisonnement à être infligées à ceux trouvés coupables pour des infractions au *Children’s Bill*, sans avoir au préalable

eu de consultations avec le *Bar Council*, le judiciaire, la *Law Society*, et à travers l'instance de l'*Attorney General* et la *Law Reform Commission*. Malheureusement, ici à Maurice, un référendum n'est pas prévu dans notre constitution, d'où la nécessité d'avoir des consultations beaucoup plus élargies avec des forces vives et les institutions concernées, afin de trouver la sanction adéquate à être infligée à ces mineurs.

M. le président, du fond de mon cœur, en tant que citoyen responsable et averti, j'aurais souhaité que vous consultiez toutes les autorités concernées, afin que vous puissiez vous assurer que dès aujourd'hui vous pourriez sécuriser nos enfants pour les générations à venir.

No matter how beautifully a Bill is presented, how strongly Members of the Government or the Parliament, as a whole, feel about the Bill, the bottom line remains that the Bill has to reach the public and to serve them in the best way possible. When we talk about the Children's Bill 2020 in the public, the first thought goes to the protection of the children and, rightly so. But, Mr Deputy Speaker, Sir, this Bill deals more with the consequences. I am sure that *Madame la ministre* has the good intention of protecting our children, but I am not sure that the increase in fines, going up to Rs200,000 in some cases will be dissuasive in most cases. Let me quote -

“14. Corporal or humiliating punishment on child

- (1) No person shall inflict corporal or humiliating punishment on a child as a measure to correct or discipline the child.
- (2) Any person who contravenes subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 5 years.”

Mr Deputy Speaker, Sir, of course, it is good to put it *noir sur blanc*, that no person has the right to inflict corporal punishment on a child, but my question is –

Whether an abusive parent or guardian, sometimes under the influence of alcohol, and even drugs, has the time to think about the 200,000 rupees fine that he might have to pay or the five years of imprisonment in his fit of anger before hitting a child?

Of course not! Of course, not, Mr Deputy Speaker, Sir! I am making this reflection here to shed light on how the measures direct more on consequences rather than prevention. This is just one

example, but it leads to the first set of suggestions that I think I will only be the echo, as almost everyone is talking about the thing. Let us all come together. I request the hon. Minister, the Government to let us all work together in an attempt to trace potential child abuse, to trace potential child abuse cases, not only the Police, not only the officers mentioned in the Bill, but the NGOs whose involvement is sadly very, very limited in this particular Bill. The teachers, the doctors, in short the nation as a whole! I understand the hon. Minister's intention to add the duty to report, which is commendable, but let's consider going further and investing some time and money on forming teachers as to how to approach a child when he or she suspects the student is being ill-treated at home. The teachers, instead of having to go to the Police and file a formal case, should have access to psychologist to share the concern and the psychologist can approach the child in a more professional way and decide on step to be taken. For this, we need to have regular visits of these professionals to schools and colleges, which I firmly believe is not the case, nor can I see any provision in this sense in the Bills. Moving on, Mr Deputy Speaker, Sir, I would like to highlight that this suggestion came to my mind while listening to Miss Mélanie from '*Collectif des enfants*'.

Educating a person at any stage of his or her life will only benefit him or her; any piece of good, well-formulated information, any guidance can only be beneficiary. Building on this theory, why not have prenatal courses, like in many European countries? Trained midwives, I emphasise on the word 'trained'. Here, they can have talks with to-be-mothers and fathers about what parenthood will be, making them aware that it will not always be easy; guiding them on good parenting. We should accept the fact that many young parents do not know how to deal with some situations. Instead of letting a small frustration leading to anger and anger leading to hitting a child, which in some cases can have deadly consequences, let's prepare the parent from the very beginning.

Furthermore, again, in an attempt to prevent cases of ill-treatment and abuse against children, Mr Deputy Speaker, Sir, I would suggest that, upon being sentenced to jail, all the detainees should be asked about their whereabouts and situation of their child, be it a mother or a father, they should give brief details on the situation they are leaving their kids. I know that with the number criminals, from petty criminals to more serious ones, this small procedure can seem too much imposed on the Police, but, Mr Deputy Speaker, Sir, these five minutes questioning, I am sure, can save lives and, if I may say so, would have saved lives.

In the case of the little Ayaan or little Faridah, if we look at the two cases, we can very easily see what they have in common, it is that one parent was in jail and the child outside, with only one parent being *balancé entre les membres de la famille : mama, papa, grands-parents, papa beau-père ou dada ou dadi*.

Moving on, Mr Deputy Speaker, Sir, I will ponder on something which looks very irrational. On one hand, we have the presentation of the Children's Court Bill, which is a good thing, I am not saying the opposite, it will be child-friendly, a lighter atmosphere for children to be more at ease, with less intimidating setting and persons. It is very good, but, on the other hand, I can read -

“33. Investigation and assessment of child in need of care and protection

(5) (a) For the purpose of this section, the Police shall interview a child in the presence, and with the consent, of any of its parent or, in the absence of its parent, any other person having parental authority over the child.”

“ (b) Where there are reasonable grounds to believe that consent obtained under paragraph (a) may increase the threat of harm to the child or another person, the Police shall interview the child in presence of an authorised officer.”

The question we ask here –

How come in this situation, the fact that the child, in all his innocence, being interviewed by the Police will not be intimidating?

To remediate to this problematic and ease several of the proceedings, a proper *Brigade des mineurs* should be set up. The *Brigade* should consist of officers who are formed to work with children and not only regular police officers like we have nowadays. I am sure, even the police will agree that not all of them have the aptitude to work with children. Hence, I believe a functional, efficient *Brigade des mineurs* is what we need.

Moving on, Mr Deputy Speaker, Sir, I would like to express my thought in relation to the prohibition of marriage under the age of 18. I am not addressing the section itself, but what goes around it. The purpose of bringing the legal age of marriage to 18, I believe is, to combat the problem of teenage or early pregnancy. To avoid school college dropout, also because before the age of eighteen, a child is not mature enough to form a family and handle its responsibility. In

short, to avoid the negative consequences that it may entail which is good, we should come up with bold initiatives when it comes to the benefit of our children.

But, Mr Deputy Speaker, Sir, we must not forget that the age for consented sexual relationship remains 16. Hence, the risk of teenage pregnancy not having proper schooling and the issue of maturity to deal with the problematic situation and handling responsibility remain same. Access to contraception at the age of 16 is also an issue in this sense. Moreover, co-habitation under the age of 18 is real. We cannot turn a blind eye to this and children under 18 will continue to have sexual relationship. Those who want to co-habit with their parent will continue to do so thus we are not solving any of the problems we targeted in the first place. I believe we should dig further to solve the targeted problem.

Mr Deputy Speaker, Sir, I totally concur with the views expressed by hon. Reza Uteem and hon. Farhad Aumeer and I will make an appeal to the hon. Minister that amendment be brought so that a judge of the Supreme Court be empowered in exceptional and specific circumstances to allow marriage under the age of 18.

Furthermore, Mr Deputy Speaker, Sir, I will come to an aspect of the Bill that has come to light for negative reasons - section 19 Causing, inciting or allowing child to be sexually abused.

I think everybody, who has gone through the Bill, does not matter of what age, gender, social background. Everybody has been moved by the fact that, according to this Clause, a child of 12 years can give consent in case of indecent act, *attentat à la pudeur*.

First of all, how can we imagine that a child at this age can give consent to such atrocities? At this age, a child can easily be tricked, influenced. Secondly, having this Clause in the Bill can cause abuses to force the child to admit that he or she has given consent. We cannot and should not deny that indecent act, *attentat à la pudeur*, on children very often take place within the family. The family members can influence the child. Hence, for the benefit of our children this part of the Bill, I believe, should be reviewed.

Before I conclude, Mr Deputy Speaker, Sir, I would like to point out some serious aspects that many of us in the Parliament and the population expected to read in the Bill but, unfortunately, are missing. Initiatives by Ministry of Gender Equality and Family Welfare to

work with other Ministries to deal with the issue of drug among the younger generation. Drugs have already invaded our colleges - clearly what has been done, or is being done has failed as youngsters still have access to all sorts of drugs.

Paedophilia on line - once again, we cannot turn a blind eye to the fact that children are connected to the internet. They have access to various platforms and are at risk of falling in the trap of paedophile online. Of course, it is of parent responsibility, the Government agencies cannot be in everyone's home, I agree with hon. Toussaint but there should be some regulations also.

Thirdly, the omission of addressing the problematic that disabled children face to have access to mainstream education - not be hypocrite. Despite being voted and applauded in the Budget, how many public schools and colleges have accommodation for children who are on wheel chair? I sincerely expected, at least, a small section on the right of disabled children, but, in vain, Mr Deputy Speaker, Sir.

Overall, Mr Deputy Speaker, Sir, I am very sorry *si je vois le verre à moitié plein* even though the Bill has a good intention of protecting our children, even though there are some commendable points, there are also many shortcomings.

For the betterment of our children, certain aspects of the Bill should be reviewed and I will conclude by requesting the hon. Minister to take into consideration our suggestion by hon. Members on this side of the House.

Thank you, Mr Deputy Speaker, Sir.

The Deputy Speaker: Thank you. We will break for 20 minutes, please.

At 00.01 a.m., the sitting was suspended.

On resuming at 00.35 a.m. with the Deputy Speaker in the Chair.

The Deputy Speaker: Thank you very much. Please, be seated!

Hon. Minister Bodha!

The Minister of Foreign Affairs, Regional Integration and International Trade (Mr N. Bodha): Mr Deputy Speaker, Sir, it is early morning and I would like to thank you for giving me the opportunity to say a few words on this extremely important series of Bills: the Children's Bill, the Children's Court Bill and the Child Sex Offender Register Bill. Mr Deputy Speaker,

Sir, everybody agrees that we have the necessity to have such a legislation. Everybody agrees that there is urgency with regard to the implementation of this legislation and the Bills come with a background of some very shocking cases which happened recently of child abuse and some astounding figures with regard to a number of cases of abuse which are of concern to our society.

Mr Deputy Speaker, Sir, I have always been very attracted to this Nordic model of society about rights, human rights, children's rights, rights of the elderly, rights of people with disabilities and I would like to say that in Sweden, the first Child Welfare Legislation was enacted in 1902. The Child Welfare Act can replace that legislation in 1924 and today, they have a legislation which dates back to 1980 which means that a lot has been done with regard to abuse, inadequate care and neglect of children, with regard to modern problems in our society

As I mentioned, Mr Deputy Speaker, Sir, in the first right, in 1842 where every child in Sweden had the right to go to school by law and in 1979, Sweden became the first country to ban corporal punishment of children as far back as 1979. Mr Deputy Speaker, Sir, today, if we have a list of Childhood Index Rankings 2020, Mauritius comes at the 60th position, the 1st one being Singapore and the indicators relate to health, education, labour, marriage, childbirth, violence amongst others and discrimination and I sincerely believe that with the passing of these three legislations, Mauritius will climb up the index because it was the commitment of this Government to address a number of real problems with regard to children's right and I would like to commend the Minister of Gender Equality and Family Welfare for the works she has done. I know also that the Minister of Social Security, hon. Mrs Jeewa-Daureeawoo, did a good job last year. Now, last year when the Bill was presented, it was presented alone. This time, it is like an omnibus legislation because we are coming with the Bill relating to the Court and also to the Child Sex Offender Register Bill.

Now, when it comes to rights, Mr Deputy Speaker, Sir, dans le passé les enfants n'avaient pas de droit, ce sont les parents qui avaient les droits sur les enfants. Ce sont les parents qui avaient le droit parce qu'ils pensaient qu'ils pouvaient mieux choisir pour les enfants. On dit toujours que c'est pour ton bien, pour leur avenir, concernant la scolarité, concernant la carrière, concernant le choix du partenaire et il en reste aujourd'hui un dernier vestige dans le Code Civil concernant le mariage entre 16 et 18 ans qui a été évoqué ici dans le cadre des débats. Je vais revenir là-dessus tout à l'heure, M. le président.

Donc, on passe d'un statut où l'enfant était un objet de droit pour devenir un sujet de droit et c'est cette évolution qui a marqué la société contemporaine depuis des années. Alors, à Maurice qu'est-ce qui se passe ? Nous avons un certain nombre de problèmes qui ont été évoqués ici et c'est lié souvent à des familles monoparentales, des familles recomposées, à des filles-mères et liés à un certain nombre de problèmes qui ont été évoqués, qui fait que beaucoup d'enfants se trouvent dans des situations difficiles. Nous avons donc amené une législation pour respecter la Convention internationale que nous avons signée, notamment concernant la Convention des Nations unies, la Charte de l'Union Africaine et nous voulons traduire cette appartenance à ces conventions en acte et prendre des mesures correctives nécessaires pour notre société.

Donc, auparavant, la responsabilité des parents c'était à l'égard des enfants mais aujourd'hui qu'est-ce qui se passe, c'est que l'autorité parentale et la gestion au quotidien de l'enfant devient une responsabilité collective et sociétale avec le passage, avec la juridiction que nous sommes en train de voter. Auparavant, comme j'avais dit, les parents avaient l'autorité suprême mais cette loi change tout. La teneur de cette loi, en élargissant la responsabilité à l'environnement de l'enfant notamment les professeurs, les moniteurs, encourage une plus grande vigilance et tout le monde est d'accord qu'on peut avoir un arsenal juridique, on peut avoir les institutions et la question a été soulevée concernant l'efficacité des institutions et comment on peut agir en amont, comment on peut être vigilant pour qu'on arrive pas justement à des cas qu'il faudra traiter comme évoquer dans le cadre de ces législations.

Donc, les campagnes de communication, à partir de ce projet de loi, devraient être axées sur la prévoyance et la prévention. Alors, il a été question en disant que les droits des enfants n'ont pas été spécifiquement mentionnés - j'ai évoqué la question avec ma collègue - dans les projets de loi mais les offenses spécifiques ont été mentionnées. C'est à partir de ces offenses spécifiques que nous avons justement les droits précis des enfants. Alors, quelles sont les offenses spécifiques?

You have a series of offences, Mr Deputy Speaker, Sir: discrimination against the child, forcing or causing a child to be married - I will come back to it later - ill-treatment of child, corporal or humiliating punishment on child, abandonment of child, abduction of child by parent, abduction of child by other person, removal of child from place of safety, causing, inciting and

allowing a child to be sexually abused and so on including child prostitution, child pornography, child grooming and a certain number of other offences like sale of alcohol but I am mentioning the rights of children.

So, the rights of children are clear, Mr Deputy Speaker, Sir. Il s'agit au fait à une identité, l'enfant a droit à une identité humaine à la satisfaction de ses besoins alimentaires fondamentaux, à une instruction financée par l'État, à des soins de santé et à des lois pénales adaptées à son âge et à son développement et les droits de l'enfant prennent ainsi en considération le caractère vulnérable et la nécessité du développement de l'enfant. La portée des droits des enfants va donc de l'offre d'autonomie à la protection contre la violence physique et psychologique.

Let me now come to the issue of child marriage. You have heard most probably of this slogan 'Girls not Brides', because girls cannot become brides. There has been a lot of debate on whether before the age of 18 we could request a Judge in Chambers to take a decision if there is consent of the minors and the consent of the parents or without the consent of the parents. I would like to say that child marriage is still legal in 117 countries, Mr Deputy Speaker, Sir. However, wherever any Minister of Social Security or Women Affairs have gone on any Convention or Conference on Rights of Women, Family Rights or Rights of the Child, Mauritius has been pointed out as one of the rare countries where the age of marriage is possible to be 16, and this has been the case because I have a list of all the recommendations that have been made in most of the cases and most of the reports on Human Rights, Rights of the Child, Rights on the Family Welfare. I think the time has come for us to be at par with what the UN Convention provides and what the African Union Charter provides.

Hon. Uteem raised the issue of child pregnancy, of consent of the teenagers. I don't think that early marriage is the solution to child pregnancy Mr Deputy Speaker, Sir. Mention was made of why don't we create an exception, we carve out an exception saying that we can give the Judge in Chambers, in exceptional cases, to consider this possibility, then, I am going to the question: what happens if the Judge in Chambers says no? What happens? There was also the issue of children born of parents between the age 16 and 18, as the legal age for sexual intercourse is 16. In that case, the child will be a natural child, acknowledged by the parents. The child is not going to be an illegitimate child. The child is going to be a natural child

acknowledged by the parents and if they get married at the age of 18, then, they will be children within the wedlock. Mr Deputy Speaker, Sir, I think the time has come for us, in Mauritius, to end the issue of child marriage. We cannot have girls becoming brides, Mr Deputy Speaker, Sir.

Let me now come to the issue of the criminal liability at the age of 14. Il y a deux écoles de pensée, M. le président. Il y a une première école de pensée où on parle de la capacité criminelle de l'enfant, c'est-à-dire, où il n'est pas considéré comme un adulte, donc, il est à moitié, ça veut dire sa capacité de commettre une offense. Dans le passé il y avait la notion de *doli incapax*, c'est-à-dire, que l'enfant ne pouvait pas avoir de *mens rea*, donc, ne pouvait pas avoir de *criminal intent*. Après on a légiféré pour dire qu'à un certain moment il y a une certaine responsabilité. Mais la société moderne a fait qu'aujourd'hui beaucoup de problèmes sociaux dans beaucoup de sociétés sont liés à la délinquance juvénile. Il y a de plus en plus une demande pour que les peines soient plus sévères, c'est pour cela que nous avons deux écoles de pensée. Et finalement, ce qui va se passer c'est que ce sera à la cour de juger quel était le degré de culpabilité ou la gravité de l'offense concernant l'enfant jusqu'à l'âge de 14 ans. Finalement, à Maurice, ce sera le *DPP* qui va décider comment procéder dans le cas où un enfant à l'âge de 14 ans aurait commis une offense.

Mr Deputy Speaker, Sir, I would like to come to the issue of the court. I will take an example which was in the front page of 'The Times' in London and I am here mentioning this issue of a court which is a friendly-court for the child, where the child can give evidence, can be a witness and if he has allegedly committed an offense. There was one case where the victim was a child and the alleged rapist defended himself, so he decided to cross-examine the child. And do you know what he did, Mr Deputy Speaker, Sir, he wore the same clothes, the same attire and had the same demeanour as when he committed the offense. Can you imagine the trauma of the child? And this was allowed and this happened in a court in London and I think that, with the amendments that we are bringing, we are going to create an environment which is conducive for the child to be able to express himself and not to be traumatised. We know that going to court is a trauma for everybody - except for those who wear the gowns - but in the case of a child, I think the necessity of a child-friendly environment is extremely important. Being accompanied by the parents, the way the court treats the child in a caring and sensitive manner which is respectful of his dignity and also the use of video and television links is a very good thing.

Mr Deputy Speaker, Sir, we are living in a world where the child, in fact, is lost between peer pressure, a world which is going extremely fast, where the line defining the childhood and teenager, teenager and adulthood are blurred and that's where we have a number of social values which have changed dramatically. I will take one example. In the drug economy today, children are used more and more as mules, as sentinels not as dealers. In fact, they are not concerned with the crime itself, but they are part of an arsenal. What do we do with these children, Mr Deputy Speaker, Sir? So, legislation should come with all the safeguards that can be given and all the rights of the children, on one hand, then, every right goes with responsibility. My colleagues have stressed a lot on the responsibilities of parents, but the problem often is that *les parents ont souvent donné leur démission concernant le sens de responsabilité M. le président et quand il y a une démission de ce sens de responsabilité, que se passe-t-il, on alloue ça aux professeurs, aux travailleurs sociaux, aux psychologues. Mais la société ne peut exister dans sa cohésion que si les parents, les éducateurs, la société civile, la société en général arrive à encadrer l'enfant.*

And I am very happy that there is an offence of bullying because this is becoming an extremely important problem in schools, because it's a culture. In America, you have a culture; what we call a knife culture in schools. You come with a knife and then you have metal detector. Now, bullying is getting more and more a concern in our schools and then, you have the huge peer pressure, being like my friend otherwise I am ostracized and I'm not part of that gang. We cannot play together, we can go out together, we cannot go to Bagatelle together.

So, we have a number of issues that are becoming more and more prominent in a very fast moving society. Success! We want to be successful, we want to have money, we want to have brands, we want to be like others, we have role models, we have stars; we want to be like them. So, these societal problems have to be addressed but legislation is there to be able to give the legal framework but the whole/a lot depends on the way parents behave, the way society behaves. In our villages in the past, if somebody was caught smoking, somebody would report it to the parents because *il y avait un contrôle social, un contrôle collectif. Aujourd'hui, il y a une indifférence. Il y a un individualisme grave qui s'est mis en place.*

Maintenant, entre le droit de l'enfant et la responsabilité des parents, si on a gommé la ligne entre ces deux, il y a un gros problème. Par exemple en Suède, les enfants peuvent renier

leurs parents. Quand on gomme l'autorité de l'éducateur par rapport au droit de l'élève, à ce moment-là, le professeur ne peut pas jouer pleinement son rôle d'éducateur. Alors, il faut absolument qu'on puisse trouver, donc, un cadre juridique mais beaucoup dépend des institutions, beaucoup dépend du rôle de chacun et la responsabilité de chacun.

Mr Deputy Speaker, Sir, I would like to say that, in the past, when we had a stepmother in Cinderella, she gets married to a prince. She was a stepdaughter but she ends up getting in a fairy tale married to a prince. Today, a stepdaughter ends up being a prey to the rapist stepfather. You have families where let us say, the mother is 30, the child is 10 and you have a stepfather. 10 years later, the mother is 40, the child is 20. Often you find situations which become horribly difficult for the child and, often, the mother for emotional, financial, for a number of reasons become a silent accomplice. So, that's where we have to be able to create an environment for people to come forward and to express themselves, to explain. The miserable child should talk and should talk to the teacher, should talk to the parent, to relatives, to neighbours. We should be able to create that condition so that, that child can open up and come forward and say that listen: I am - there is something wrong and we can give that child *l'encadrement nécessaire pour que l'abus cesse et que l'enfant puisse se développer dans les meilleures conditions*.

Mr Deputy Speaker, Sir, the three Bills are an omnibus legislation. They create an environment, they symbolise a commitment of this Government. They symbolise also our commitment to our children because our children are the best that we can have for generations to come. They are the leaders of tomorrow.

I will end up, Mr Deputy Speaker, Gibran has said – «*Nos enfants ne sont pas nos enfants*». Mais nous avons une énorme responsabilité envers nos enfants. L'arsenal juridique est là mais ce qu'il faudrait absolument c'est qu'avec l'arsenal juridique, nous avons le système éducatif, le système de valeurs et que toute la société civile, les éducateurs, les parents jouent pleinement leur rôle pour que nous puissions avoir demain des enfants qui seront les leaders pour un monde meilleur.

Merci beaucoup.

The Deputy Speaker: Thank you very much. Hon. Paul Bérenger!

Mr P. Bérenger (First Member for Stanley & Rose Hill): M. le président, comme on l'a dit avant moi, le *Children's Bill* s'est longtemps fait attendre, et comme on l'a rappelé avant moi, l'année dernière le *Children's Bill* avait été présenté en première lecture. Mais heureusement, le *Children's Bill* qui est devant nous, aujourd'hui, contient beaucoup d'améliorations par rapport au *Children's Bill* qui avait été présenté l'année dernière.

Le MMM est d'accord en général avec le *Children's Bill*, le *Children's Court Bill* et le *Child Sex Offender Register Bill*. Mais avant de commenter les points saillants de ces textes de loi, une mise en garde - que les textes de loi que nous allons voter ne restent pas lettre morte. Que les textes de loi que nous allons voter soient sérieusement et systématiquement mis en application.

Et nous avons un précédent qui m'autorise à adresser cette mise en garde au gouvernement. En effet pendant des années, des lois superbes ont été votées dans le cas de notre secteur *offshore* mais pas mises en application avec pour résultat que nous nous retrouvons aujourd'hui sur le *grey list* du *Financial Action Task Force* and le *black list* de l'Union européenne. Les lois étaient superbes mais l'application de ces lois nulles.

C'est pourquoi je m'autorise cette mise en garde. Il y a eu ce précédent, qu'il ne se répète pas. Qu'il ne se répète pas surtout parce qu'il y a eu - comme tant d'orateurs l'ont souligné avant moi - ces derniers temps toutes sortes de crimes atroces et d'abus contre les enfants de la République de Maurice. Et, ces derniers jours, tout le pays a été littéralement bouleversé et indigné dans le cas du petit Ayaan.

Je commencerai, M. le président, par cette question délicate et importante de l'âge légal du mariage, la clause 12 du *Children's Bill*. J'ai lu je ne sais combien de commentaires à l'effet que maintenant l'âge minimum du mariage sera fixé à 18 ans. Faux, *actually wrong*! Depuis des années, comme mon collègue, l'honorable Reza Uteem l'a dit, la clause 144 du Code Napoléon, en bon vieux français mais clairement le dit : « Nul ne peut contracter mariage avant dix-huit ans révolus. »

Ce que cette loi change, ce qu'elle interdit, c'est deux dérogations qui existaient. L'âge minimum du mariage était fixé à 18 ans avec deux dérogations : si le consentement des parents était obtenu et si une dispense d'un juge en Chambre était obtenue, dans ces cas-là, le mariage était autorisé entre 16 ans et 18 ans. Ce que le *Children's Bill* aujourd'hui fait, c'est abolir ces

deux dérogations. J'ai entendu certains orateurs du côté du gouvernement se féliciter de cela, mais ces mêmes orateurs étaient ministres dans le même gouvernement qui, un an de cela, ne touchait pas à ces deux dérogations. Alors, soyons sérieux ! Ce qui était bon, un an de cela est devenu mauvais d'après eux. Mais ça demande réflexion ; qu'on s'arrête un moment ! Ce que ce nouveau *Children's Bill* fait, c'est abolir ces deux dérogations.

Au MMM, beaucoup sont d'accord pour abolir ces deux dérogations. Beaucoup sont d'accord, mais certains souhaitent qu'au moins dans les cas exceptionnels où les intérêts du jeune de 16 à 18 ans le demandent, qu'une dérogation puisse être accordée par un juge ou même deux juges dans des cas exceptionnels et à condition que la loi précise bien, sans dicter quoi que ce soit aux juges, dans tout le respect que nous leur devons, mais la loi peut et doit préciser les critères à être utilisés par le ou les juges pour décider si dérogation il doit y avoir ou non.

J'ai entendu l'honorable Bodha poser une question polémique ! Mais qu'est-ce qui arrive si le juge dit non ? C'est pourquoi moi - je discute avec mes collègues depuis un bout de temps - je suis en faveur que cette dérogation possible, dans des cas exceptionnels, accordée selon des critères stricts précisés dans la loi, que cette dérogation puisse être accordée par deux juges. Je ne dis pas ça parce que l'honorable Bodha a posé cette question polémique, mais il y va de la vie d'un ou de deux jeunes, qui est très important, et c'est vrai qu'un seul juge peut décider dans telle ou telle direction, mais deux juges c'est doublement s'assurer que tous les points de vue sont bien entendus sur cette question délicate. Au MMM, tout le monde est d'accord que la dérogation, uniquement avec le consentement des parents, doit partir. Nous sommes d'accord avec ça, mais certains, comme moi-même, pensent que dans des cas exceptionnels qui peuvent déboucher sur de vrais drames, peuvent déboucher sur des suicides, dans des cas vraiment exceptionnels, que deux juges en Chambre puissent accorder, s'ils le jugent nécessaire, selon les critères prévus dans la loi, une dérogation.

D'ailleurs, je viendrai là-dessus dans quelques secondes. La section 55 donne au *DPP*, au *Director of Public Prosecutions* le pouvoir de décider qu'au lieu de poursuivre au criminel un jeune, qu'il puisse ordonner que le jeune suive un programme de réhabilitation. C'est ce genre d'exception qui, je pense, mérite d'être considérée le plus sérieusement possible dans les cas exceptionnels de mariage entre 16 ans et 18 ans. Je précise donc, beaucoup au MMM sont d'accord d'éliminer complètement les deux dérogations possibles ; certains, et moi-même je

pense qu'il est préférable d'accorder à deux juges en Chambre la possibilité d'accorder une dérogation, M. le président.

Je passe donc à la responsabilité pénale à partir de 14 ans, et je viens de donner l'exemple où le *DPP* peut - on l'appelle une dérogation ou autre chose - demander qu'un jeune de 14 à 16 ans ne soit pas poursuivi au criminel mais qu'il ait plutôt à suivre un programme de réhabilitation. Jusqu'à présent, l'âge de responsabilité pénale n'était pas fixé dans le *Child Protection Act*, mais différentes lois comme le *Juvenile Offenders Act* permettaient que des jeunes à partir de 12 ans puissent être traduits devant le *Juvenile Court*. Nous sommes, donc, au MMM, satisfaits qu'il y ait éclaircissement et progrès. Les choses sont claires maintenant ; pas de responsabilité pénale des jeunes avant 14 ans. Mais je précise que là aussi, au MMM, certains - ça c'est un progrès, c'est une clarification - souhaiteraient que l'âge de responsabilité pénale soit de 16 ans au lieu de 14 ans.

Je passe à la question que je considère être la plus délicate et, où au MMM, nous ne sommes pas d'accord. L'honorable Arianne Navarre-Marie, Joanna Bérenger et Reza Uteem l'ont dit avant moi, et je le répète ; la section 19 du *Child Protection Bill, indecent act* (attentat à la pudeur) sur les enfants de 12 à 18 ans. Les choses sont plus claires encore qu'avant ; que des relations sexuelles avec quelqu'un de moins de 16 ans constituent un délit. C'est répété dans le texte de loi et c'est bon, mais la section 19 (3) (b), en fait toute la section 19 est de mon point de vue très mal draftée et très ambiguë, M. le président. Mes collègues, donc, Arianne Navarre-Marie, Joanna Bérenger et Reza Uteem, entre autres, l'ont dit. C'est très mal drafté cette section, et surtout la section 19 (3) (b), mais moi j'aurais de loin préféré que toute la section 19 soit *rephrased*. C'est plein d'ambiguïté, et cette question de responsabilité d'un enfant à partir de 12 ans est inacceptable. Je pense que le gouvernement devrait prendre le temps de revoir cette section 19 dans son ensemble, redrafter dans la clarté la section 19 - *causing, inciting or allowing child to be sexually abused*, pour mieux protéger les enfants, mais aussi pour éliminer les ambiguïtés qu'il y a dans cette section. En effet, ce que le texte tel que drafté semble dire, c'est qu'un enfant, à partir de 12 ans, peut donner son consentement, attentat à la pudeur (*indecent act*) à partir de 12 ans, comme ma collègue Joanna Bérenger l'a dit. Ça, c'est totalement contraire à tout l'esprit d'un bon texte de loi. Maintenant si c'est parce que c'est mal drafté qu'on comprend ça, mais moi j'ai lu ça 50 fois.

Comment un bon texte de loi, comme celui qui est devant nous, peut venir dire qu'un enfant, à partir de 12 ans, peut donner son consentement à un attentat à la pudeur, à *un indecent act* ? Je crois que j'ai été le premier comme on dit en creole, j'avais 'tiqué' quand on a vu ça! Je n'ai pas voulu croire ce que cette section dit. J'ai relu 50 fois. Nous allons écouter, peut-être pas écouter mais nous allons prendre une note de ce que la ministre va dire là-dessus, mais c'est l'appel le plus pressant que le MMM, que moi-même, nous puissions faire, revoir cette section 19 et en particulier la section 19 3(b), qui dit, ou semble dire qu'un enfant à partir de 12 ans peut donner son consentement à un attentat à la pudeur, à un *indecent act*. C'est pourquoi je crois que mon collègue Reza Uteem a demandé que la section 19 3(b) soit tout simplement *deleted*. Mais en tout cas, je suis sûr que quand la ministre ou qui que ce soit y réfléchit, ça ne peut pas être bon, qu'à partir de 12 ans un enfant puisse donner son soi-disant consentement à un acte indécent, à un attentat à la pudeur. Nous souhaitons que ce soit, soit *deleted*, soit *redrafted*, qu'un amendement soit apporté, mais c'est inacceptable. J'espère que c'est involontaire que ça semble dire cela, dans lequel cas, il faut préciser les choses.

Comme je parle de délits à caractère sexuel, j'ai l'impression que je vais être le seul à parler d'un sujet que la ministre, en passant comme ça, a mentionné, *chemical castration*, castration chimique sans aucune préparation. Sans aucune précaution, la ministre n'a fait que jeter cela à un moment du débat. Et c'est le seul moment, à part la fin de son discours, où la majorité a applaudi, mais pourtant pas un mot là-dessus. Personne n'est venu – parce que c'est un sujet délicat. Mais je vais parler assez longuement là-dessus. La castration chimique n'est pas dans le *Bill*. Alors, franchement, je trouve inacceptable que la ministre ait jeté ça comme ça, récolté quelques applaudissements, alors que ce n'est même pas dans le *Bill* et c'est un sujet délicat, difficile, qui mérite qu'on fasse bien attention, M. le président. Cette appellation même, 'castration chimique', utilisée par la ministre est contestée parce que l'expression 'castration chimique', l'expression renvoie à l'idée de mutilation génitale et donne l'impression que cette fameuse 'castration chimique', c'est irréversible, alors que ce n'est pas le cas. La castration chimique prend fin quand le traitement en question s'arrête, M. le président. Et de quel traitement je parle? Je parle de traitement à base d'hormone par voie soit orale ou par injection, un traitement pour diminuer l'appétit sexuel des délinquants sexuels, et surtout des pédophiles. C'est pourquoi, M. le président, déjà, des lois prévoyant la castration chimique, des lois -

mauvaise appellation, mais enfin c'est comme ça qu'on a appelé ça et c'est consacré comme expression.

Des lois et des pratiques de castration chimique existent déjà aux États-Unis, en Europe, en Corée de Sud, et ailleurs ; et en Inde, en 2013, un comité, le *Verma Committee*, présidé par un juge de la Cour suprême de l'Inde, a produit un rapport condamnant sans appel la castration chimique. Ce n'est pas ma position. Je préciserai ma position dans quelques minutes. Mais ce comité a condamné comme étant anticonstitutionnel et inhumain. Mais malgré cela, depuis ces années-là, d'après tous ce que j'ai pu trouver comme renseignement, l'Inde, le Parlement Indien, travaille toujours, depuis le travail de ce comité-là, à la préparation d'un *Bill* détaillé sur la question de castration chimique. Donc, ça existe déjà, mais la question de castration chimique fait toujours débat à cause des effets secondaires parce que l'efficacité reste encore à prouver et à cause de questions relevant des droits de l'homme. Alors, après que la ministre ait jeté cette idée comme ça, pour passer à autre chose, je suggère, je propose qu'on prenne le temps de récolter toutes les informations possibles sur ce qui se pratique déjà de par le monde, ce qui est en train de se faire en Inde. Et après avoir récolté toutes les informations nécessaires et possibles, le ministère, le gouvernement, d'approuver d'abord et de circuler un *position paper* après toutes les consultations nécessaires avec les autorités légales et médicales : ouvrir un débat ; de donner toutes les informations *available*, de provoquer un débat et de revenir sur la question à tête reposée en connaissance de cause dans un avenir pas lointain.

Je terminerai, M. le président, sur le *Child Survey Coordinating Panel* qui est proposé ; je suis pour une bonne coordination, *a Child Services Coordinating Panel which shall be responsible for the coordination of all activities relating to the implementation of the present legislation, the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.*

J'ai lu, M. le président, que c'était manquer de respect à l'*Ombudsperson for Children*, que ça empièterait sur les prérogatives et les responsabilités du *Ombudsperson for Children*. Je ne suis pas d'accord. Mais seulement je ne suis pas d'accord non plus quand l'honorable ministre de l'Éducation est venue dire que *l'Ombudsperson for Children is purely advisory*. Non ! Nous avons préparé cette loi en 2003 en connaissance de cause et l'*Ombudsperson for Children* a beaucoup de pouvoir. Pour ne prendre qu'un exemple, à la section 6 (f) du *Ombudsman for*

Children Act de 2003, l'*Ombudsperson for Children* can initiate an investigation whenever the *Ombudsperson for Children* considers that there is, has been or is likely to be a violation of the rights of a child. Donc, l'*Ombudsperson for Children* a beaucoup de pouvoirs, il fait un travail formidable, mais qu'on peut encore améliorer comme toute chose dans la vie. Mais je ne peux pas être d'accord qu'on vienne dire que ce *Child Service Coordination Panel* diminue l'*Ombudsperson for Children*. Non ! Lorsque nous avons préparé et voté cette loi en 2003, l'idée principale c'était de créer un *Ombudsperson for Children* post totalement indépendant. C'est pourquoi à un moment je me suis demandé : est-ce que l'*Ombudsperson for Children* ne devrait pas siéger dans ce *Child Services Coordinating Panel* ou même le présider. Non!

L'idée était bonne et je pense qu'elle doit être préservée, que le *Ombudsperson for Children* doit avoir une position forte mais totalement indépendante. Donc, je suis totalement pour qu'il y ait ce *Child Services Coordinating Panel* et que nous encourageons l'*Ombudsperson for Children* à continuer son bon travail.

Seulement ce que je demanderai c'est que les deux membres - rien n'est précisé sur leurs qualifications ou quoi - à être nommés par le ministre sur ce *Child Services Coordinating Panel*; comme toujours il faudrait de larges consultations avec les *NGOs*, avec les organisations concernées avant de nommer ces deux membres du *Child Services Coordinating Panel*.

Merci, M. le président.

The Deputy Speaker: Thank you very much. Hon. Minister Ganoo!

Mr Ganoo: Mr Deputy Speaker, Sir, I move that the debate be now adjourned.

Mr Seeruttun seconded.

Question put and agreed to.

Debate adjourned accordingly.

ADJOURNMENT

The Deputy Prime Minister: Mr Deputy Speaker, Sir, I beg to move that this Assembly do now adjourn to Tuesday 08 December 2020 at 11.30 a.m.

Mr Seeruttun seconded.

Question put and agreed to.

The Deputy Speaker: The House stands adjourned. Adjournment matters! Hon. Ms Joanna Bérenger!

MATTERS RAISED

(1.25 a.m.)

RESIDENCE L'OISEAU - FOOTBALL GROUND

Ms J. Bérenger (First Member for Vacoas & Floréal): Merci, M. le président. Ma requête, c'est adressée à l'honorable ministre des Collectivités Locales puisque le ministre responsable de la Jeunesse et des Sports est présent peut-être que je devrais m'adresser à lui puisqu'il s'agit d'un terrain de football à Résidence L'Oiseau qui est en très mauvais état. Le grillage est très abîmé. Les lampadaires ne fonctionnent plus et il y a des câbles électriques haute tension qui dépassent du sol et représentent un vrai danger. Je lui demanderai de bien vouloir y porter attention.

Merci.

The Minister of Youth Empowerment, Sports and Recreation (Mr S. Toussaint): M. le président, je vais passer l'information à mon collègue.

The Deputy Speaker: Hon. Reza Uteem !

(1.26 a.m.)

ENERGY SERVICES DIVISION - PLANT MECHANIC & ELECTRICIAN STAFF

Mr R. Uteem (Second Member for Port Louis South & Port Louis Central): Thank you, Mr Deputy Speaker, Sir.

I have a matter addressed to the hon. Minister of Public Service, Administrative and Institutional Reforms who is not here.

It concerns a plea by 150 employees working as Plant Mechanic and Electrician staff at the Energy Services Division who have been working during confinement time; who have been working since November and have not been paid their overtime for the month of November, and have not been paid their allowance for work undertaken during confinement period.

So, these 150 employees, including employees in the National Assembly, have asked me to request the hon. Minister of Public Service, Administrative and Institutional Reforms to look into the matter so that they may be paid before year end so that they can celebrate.

The Deputy Prime Minister: Mr Deputy Speaker, I shall convey the concern of the hon. Member to my colleague.

The Deputy Speaker: Hon. Osman Mahomed!

(1.27 a.m.)

BANGLADESH, TRANQUEBAR - DRAIN WORKS

Mr Osman Mahomed (First Member for Port Louis South & Port Louis Central):

Yes, thank you.

The request I am going to make tonight is addressed to the hon. Minister of Minister of National Infrastructure and Community Development and it has to do with some drain work that the NDU is doing in Bangladesh in Tranquebar.

Now, the road there is very narrow and the drain work that is being done entails different levels between the road and the top of the pavement, and this has the overall effect of making the road becoming narrower than it was before.

I think the inhabitants have raised the issue with the PPS Mrs Dorine Chukowry in the past.

I would like to ask the hon. Minister to have the officers and the PPS discuss the matter over and again with the inhabitants with a view to find a permanent solution to the problem.

The Deputy Speaker: Hon. Minister, please.

The Minister of National Infrastructure and Community Development (Mr M. Hurreeram): Thank you, Mr Deputy Speaker.

As you know, people are always resistant to change.

My colleague Dorine Chukowry is having a grip on that project and this project had been designed by the consultant and the engineers have looked into.

As you know, everyone knows a bit too much. So, my colleague Dorine Chukowry is looking into it and I, together with her, will have a site visit to look into the matter.

Thank you.

The Deputy Speaker: Thank you very much. Have a safe ride back home.

At 1.30 a.m., the Assembly was, on its rising, adjourned to Tuesday 08 December 2020 at 11.30 a.m.