

## Report on Belize- 5th Round of the Universal Periodic Review – May 2009

This report is submitted by the **United Belize Advocacy Movement (UNIBAM)** and the **Sexual Rights Initiative**<sup>1</sup>. It deals with the situation of **sexual rights** in Belize, making special references to **national human rights institutions; sexual minorities; HIV/AIDS; abortion; and sexuality education**.

### Introduction

1. Belize's Labour survey of 2007 estimated the population to be of 314,000 inhabitants. The influx of over 40,000 Central American refugees and immigrants during the late 1980s – equivalent to close to 15 per cent of the estimated population at that time – resulted in a major demographic shift from majority African-descendant to Mestizo.
2. Belize is culturally and socially conservative when it comes to issues of reproductive and sexual rights, across all religious and ethnic communities. Women's ability to make choices regarding their reproductive future is affected by unequal gender relations, while, traditionally, there has been tolerance of persons of non-hetero-normative behaviour, this last only as long as they do not upset the social balance.

### Legal framework and national human rights institutions

3. In 1996, Belize acceded to the International Covenant for Civil and Political rights on June 10th, 1996; signed the CEDAW on 7th March 1990 and on 16th May 1990 ratified the convention. Belize signed the International Covenant on Economic, Social and Cultural Rights on 6th September 2000, but has not ratified the covenant and lastly, signed the Convention of the Rights of the Child (CRC) on 2nd March, 1990 and ratified it on 2nd May, 1990 among others.
4. However, national legislation for implementing the substantive rights set out in international human rights law has been negligible, making it clear that the government of Belize have paid selective lip service to its obligations under international human rights law.
5. National Human Rights mechanisms remain weak, and they include the Ombudsman Office only. There is no functioning Human Rights Commission in Belize.
6. Recommendations:
  - To draft, pass and enact national legislation to implement the substantive rights set out in international human rights obligations ratified by Belize.
  - To create a National Human Rights institution in full compliance with the Paris Principles.

### Sexual minorities

7. As the Yogyakarta Principles observe, all persons, regardless of their sexual orientation or gender identity, are entitled to the full enjoyment of all human rights. In spite of these obligations imposed on Belize by virtue of the ratification of the treaties, the government of Belize continues to deny them legal recognition and protection.

#### *Legal status*

8. The Constitution of Belize includes a Fundamental Rights chapter that specifies that all citizens, regardless of their race, place of origin, political opinions, colour, creed or sex, and subject to respect for the rights and freedoms of others and the public interest, are entitled to the following rights: (a) life, liberty, security of the person, and the protection of the law; (b) freedom of conscience, of expression and of assembly and association; (c) protection for family life, personal privacy, the privacy of the home and other property and recognition of human dignity.

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<sup>1</sup> A coalition including Mulabi – Latin American Space for Sexualities and Rights; Action Canada for Population and Development; Creating Resources for Empowerment and Action-India, the Polish Federation for Women and Family Planning, and others

9. However, there are several dispositions that do not reflect the application of equal treatment to sexual minorities, by action or by omission:

Belize Criminal Code Chapter 101 states in section 53: "*Every person who has carnal intercourse against the order of nature with any person or animal shall be liable to imprisonment for 10 years.*" This disposition criminalizes consensual non-procreative sex, affecting both same-sex and straight relationships even though societal bias leads to its being enforced only against those who are having same-sex sexual relationships or are perceived to be doing so. In 1994 the Human Rights Committee understood that penalizing consensual same-sex practices between adults constituted discrimination based on sex and thus violated Article 2 of the Covenant on Civil and Political Rights, acceded to by Belize (*Toonen v. Australia*).

The Immigration Act, Chapter 156, Revised Edition 2000, under categories of prohibited immigrants - Section 5.(1) (2) (3)- includes the following .... "*(e) any prostitute or homosexual or any person who may be living on or receiving or may have been living on or receiving the proceeds of prostitution or homosexual behaviour*". Considering that engaging in sex work is not a crime in Belize, this disposition unduly discriminates against current sex workers, those who might have done sex work in the past, but are no longer doing so, and –the most worrying part- those who "may be living on the proceeds of prostitution" . The law does not explain who and by what means it's to be decided which prospective applicants may fall into that category, but it would be reasonable to suspect that age, sex/gender and the immigration officer's gender and sexual stereotypes will play a large part in enforcing that part of the law, that makes it discriminatory and unfair. Unfortunately, for as long as "sex against nature," continues to be a crime in Belize, the inclusion of homosexuals in this disposition cannot be challenged. However, it has to be pointed out that consensual same-sex relationships are not a crime for international human rights law, as stated above, and this disposition deprives Belize of qualified and law-abiding immigrants who also happen to be lesbian or gay.

Section 71.- (1) of the Belize Criminal Code defines rape as *the carnal knowledge of a female of any age without her consent*. The law assumes that males cannot be raped, thus presenting a gender imbalance resulting in unequal treatment. A gay man or a male in detention could be raped without recourse to the law as the legal definition covers only women. For boys, rape is not recognized in law as Section 47(1) of the Criminal Code read that: "*Every person who carnally knows a female child under the age of fourteen years, with or without her consent, shall on conviction on indictment be imprisoned for a term which shall not be less than twelve years, but which may extend to imprisonment for life.*"

#### *Police brutality*

10. UNIBAM has documented several incidents of violence and threats against gay men, of which we will provide a few examples here:

On September 24, 2008, in the northern part of Belize, a policeman blackmailed a gay man into paying him \$50, plus agreeing to go on a date with the police officer or his partner would be arrested. The man was relieved of his money and never reported his experience to the internal affairs of the police department for he did not believe justice would have been forthcoming.

On 21st January of 2007 a gay man was hurt in the face with a beer bottle by homophobic persons near his house in Belize City. The police intervene, but instead of arresting the perpetrators, they proceeded to insult the victim for his lifestyle.

In May, 2006, two gay men were reportedly assaulted, insulted, beaten and then stripped of their clothes near a public space called Dolphin Park by a police officer. The clothes were not given back to them till reaching the police station a half hour later. One of the victims reported the abuse to the police internal affairs in Belize City, but nothing has come of the case since.

On June 12th, 2007, a British transgender man referred to UNIBAM that his house was broken into on May 26th 2007. He reported the robbery to the San Ignacio Town Police station, located in the

Western part of the country. Asked to search for evidence and bring it back to the station, found a knife used in the robbery and did as was told. But an officer, Corporal Sanchez gave the order for him to be detained. The knife was contaminated by one of the officers nullifying the evidence. He had to endure comments like "You have brought disease to us..." or "I'll make a man of you.. ". He was locked up from 11:00 in the morning till 1:30 in the afternoon at the police station without his diabetic medication until a prisoner yelled that he was ill. The police kept his passport that was only recovered after several days and many visits to the station.

11. As the last example shows, if a crime is committed and reported to the police, victims may experience further stigmatisation and discrimination. Their identity becomes the focus of police attention and their complaint is –in the best case- ignored, laughed and trivialized; in the worse case, the victim him/herself is arrested, as in the example. Largely, these incidents remain invisible because they go unreported as victims feel ashamed and, for well-founded reasons, do not trust the police. Also, the existence of Section 53 provides the police for an excellent excuse to harass, threaten and extort homosexual and trans people, and allows for these incidents to go unreported, uninvestigated and unpunished.
12. On the issue of how they address sexual minorities, inadequate training exists to preventing human rights abuses by individual officers. However, the media has played a role in sensitising citizens on human rights abuses and that has led to the Police taking corrective measures in their actions to protect public safety. This applies to police brutality in general. Whenever the media highlighted abuses, the Police Department responded publicly. But brutality continues and it mostly affects the Creole population and young people. We have insufficient documentation on brutality against sexual minorities as to the extent of abuse or ill-treatment that exists.

#### *Prejudice and social stigma and its consequences*

13. Prejudice and social stigma are a part of the daily experience of young gay and transgender persons in the education system. The same situation affects all people living with HIV/AIDS. UNIBAM documented the case of a young gay man attending a high school in Belize City, who reported that the school wanted to expel him because of his sexuality. In the end, he managed not to be expelled because of his good grades; the threat on the part of the staff and authorities caused him psychological harm.
14. Many lesbian, gay and trans persons face tremendous psychological and emotional problems due to self-hate and self-pity, prejudice and marginalisation from society and expulsion from their families and communities when they reveal being of a different sexual orientation or gender identity than the 'norm'. In fact one of our clients –a HIV positive 18 years old boy- felt so much fear of rejection that he told his mother that he had been infected by a girl.

#### **15. Recommendations:**

- To de-criminalize consensual sexual relations between adults of the same sex by repealing Section 53 of the Belize Criminal Code.
- To create a legal framework to safeguard the rights of sexual minorities, including amending the legislation on Immigration and Rape.
- To educate and sensitise members of the police on their obligations in terms of non-discriminatory treatment towards gays, bisexual, transgender persons and persons living with HIV/AIDS.
- To investigate and, when needed, punish, discriminatory and abusive behaviour on the part of police officers towards gays, bisexual, transgender persons and persons living with HIV/AIDS.
- To open a dialogue on culture and human rights, to guarantee that no human rights violations will be perpetrated against anyone –including LGBT persons- under the name of culture or tradition.

## **HIV/AIDS**

16. Belize shows cumulative rates of HIV and AIDS up to the first quarter of 2008 of 4,253, and has the highest per capita infection rates in Central America and the fourth in the Caribbean. The Overall prevalence rate in Belize is 2.4% compared to the 4.5% for the prison population research done in 2005.
17. There is no legal framework that protects the rights of people living with HIV/AIDS although there is a fairly widespread and institutional awareness of the problems faced by such persons. Issues of stigma and discrimination have been very widely discussed, including at meetings with our National AIDS Commission. However, issues of lack of access to testing, lapses in confidentiality and discrimination within the health service sector against young people, men who have sex with men and transgender persons have all contributed to the sustained restrictions in access to care for people living with HIV/AIDS. In addition, parts of the media continue to demonise HIV/AIDS as a homosexual disease.
18. There have been major National Consultation meetings on HIV/AIDS and Human Rights and a legal review under the National AIDS Commission of Belize. However, while there is recognition that the law regarding consensual sex between same-sex couples must be repealed, a few members of the Sub-Committee for Policy and Legislation have informally expressed fears that any such changes would derail the drafting and submission of HIV/AIDS legislation.
19. In this context and for the population of men who have sex with men, Section 53 constitutes a barrier in access to care, treatment and prevention. The issue of freedom from discrimination based on sexual orientation is further developed and acknowledged in state documents, like the Political Reform Commission Report of 2000 that mentioned the need to include protection against sexual orientation in the constitution of Belize. The United Belize Advocacy Movement sent an undated letter on this issue to the then Prime Minister Said Musa Office and received a response dated 15th, February, 2007. In his response, the Prime Minister office states, "As party and as government, we remain committed to the principle and practice of non-discrimination, this is especially relevant in the implementation of the national HIV policy that no person, irrespective of one's sexual orientation should experience stigma. Amending the constitution, as was suggested, will not in our view address what is a socio-cultural matter". However, the criminalized legal status of consensual same-sex relationships feeds the socio-cultural basis of discrimination, as, among other things, it does not allow the carrying on of sustained public education campaigns that would be helpful in reducing such societal biases. Throughout this report we outline the many other consequences of this criminalization that demand it be addressed by the State and ended.
20. Young people also face barriers, as those younger than 16 cannot access HIV/AIDS Voluntary Counselling and Testing services without parental consent. This violates the right to privacy and in the end the right to health of young people, particularly of those having same-sex relationships and young women having pre-marital sex, who might choose not to access the services in order to avoid being punished by their parents if they reveal their sexual behaviour.
21. The International Centre for Prison Studies ranks Belize as having the 12th-highest prison-to-public ratio in the world, with about 461 inmates per 100,000 inhabitants. In Belize, the only existing prison is run by the Kolbe Foundation, a Christian institution that receives government funding for this task. The existence of Section 53 –that would make a prison official who distributes condoms to prisoners an accessory to a crime- and the ideology of the managing institution that opposes the use of condoms, together make effective HIV/AIDS prevention in jails extremely difficult.

## 22. Recommendations

- Draft and promulgate a legal framework with enforcement powers to protect people living with HIV/AIDS from discrimination in all areas, including in the health service, schools and workplaces.
- Eliminate the requirement or practice of parental consent for providing counselling and testing services to people less than 16 years of age.
- Once Section 53 is repealed, design and implement an HIV/AIDS/STI prevention program for those deprived of their liberty, including sensitivity and awareness workshops, free distribution of condoms and VCT.

## **Abortion**

23. Abortion is legal in Belize when the pregnant woman is facing severe physical or mental health problems or when there is foetal impairment, but not on request or in case of rape or incest. In 2005, over 365 women were admitted to local hospitals for complications resulting from illegal abortions. Belize Family Life Association clinic (BFLA)<sup>2</sup>, a private sexual health organization, has seven reproductive health clinics throughout the country have addressed the issue of sex under the age of 16. Executive Director, Joanne Burke for BFLA, points out that 28 12-years old or younger girls gave birth last year.

## **24. Recommendations**

- Legalize abortion in case of rape or incest, particularly when the victims are underage.
- Guarantee quality post-abortion care in public hospitals for all women who have undergone abortions, regardless of their age, without reprisals<sup>3</sup>

## **Sexuality education**

25. At the primary and secondary school levels, sexuality education is being integrated as part of a program called the Health and Family Life Education formulated by our Ministry of Education. In secular, State-run schools there has been some progress in terms of discussing the use of condoms to prevent HIV/AIDS since 2008. In light of the 2.4% prevalence rate in Belize up to 2007, the Ministry of Education embarked on a consultation to get feedback on enhancing the Port of Spain Commitment in improving HIV Education in 2008 for which UNIBAM was invited to make contributions. Teachers have been trained and Health and Family Life Education Officers have been hired to incorporated basic sexuality education into the school curriculum.

26. But Catholic and evangelical schools have a problematic relationship with sexuality in general that damages the contribution they can make to sexuality education. There is a history of denominational schools management expelling girls for being pregnant and firing female teachers for having a baby out of wedlock, while the former Catholic Bishop has strongly spoken against condom use. General managers of denominational schools consider that their teachers are uncomfortable with sexuality education. And this is particularly relevant when considering that the Catholic Church runs an estimated 60% of the country's schools.

## **27. Recommendations**

- In consultation with civil society organizations, the academia, teachers and student unions, review the current curricula on Health and Family Life Education with the view to make it more effective for HIV/STI prevention and more inclusive of the whole spectrum of consensual sexual behaviours, including same-sex relationships.
- Design and implement public awareness and education campaigns on sexuality strategically aimed at young people who might be left out of the sexuality education provided by Government-run schools either because of their attendance to religious schools or because they have been marginalized by the education system.

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<sup>2</sup> For more information, see [www.newsandletters.org/Issues/2007/April-May/Belize\\_Apr-May\\_07.htm](http://www.newsandletters.org/Issues/2007/April-May/Belize_Apr-May_07.htm).

<sup>3</sup> Source: [www.undp.org/latinamerica/country-docs/CPD-Belize.doc](http://www.undp.org/latinamerica/country-docs/CPD-Belize.doc)

Source : [www.un.org/esa/population/publications/2007\\_Abortion\\_Policies\\_Chart/2007\\_WallChart.pdf](http://www.un.org/esa/population/publications/2007_Abortion_Policies_Chart/2007_WallChart.pdf)