



UniBAM Human Rights Advocacy Outcome Report: Written by: Caleb Orozco
Submitted to CSO HUB

Leveraging National and Transnational Human Rights Mechanisms to change
Political tone and advance law reform in Belize

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Section I: Advocacy Background

Human Rights enforcement is the responsibility of duty-bearers and rightsholders alike, but the burden of enforcement is with aggrieved rightsholders. No victims mean no case; no case means no state record. Troubling in our governance are the gate keepers of rights who guard against constitutional progress in subsidiary laws. They include right wing evangelicals with their anti-constitutional position and the patriarchal traditional churches whose history of policing women's bodies is well known.

Though the state has invested in systems like The Office of Ombudsman, the Police Standard Branch, and the judiciary. The state does not initiate the advancement of protection without help to find the resources, an advocacy driver, and a political champion. Our judiciary gives citizens the option of holding a private or public authority accountable, but forces enforcement of constitutional violation unto the back of the of the aggrieved citizen. While constitutional matters are handled at the Supreme Court, The Court of Appeals and the Caribbean Court of Justice, it is the prosecution branch, forensic, ombudsman office and the police standard branch, CIB that supports investigative processes of duty bearers when violations occur. Interestingly, the process of one arm of government supporting the next arm of government is slow and inconsistent. For the Court may make a decision, but the government may take its time.

Rights enforcement in Belize is complemented with international treaty obligations that Belize has sign unto but struggles to report. While related protocols exist for to individual complaint at UN bodies, Belize has not signed all of them. Even the ones it has ratified, like the UNCRPD and the CRC, Belize has not reported to the treaty bodies consistently. In fact, it took Belize 18 years to make a report for 2017 that was reviewed in 2018 in Geneva for the ICCPR.

International treaty obligations reports are not magic bullets, they are a political tool for CSO's to monitor the state shift in political tone, its to document weaknesses in our justice system and how it values national governance over vulnerable population. A stakeholder or shadow report must be a multi-prong and includes, legal research, systemic documentation of violation, international resource mobilization to support any liberation or civil rights framework. It demands political engagement with development partners and litigations in the courts and a victim advocacy framework that is trauma informed in approach. Reporting a single violation, no matter where, is not enough to advance systemic change, it is a long-term investment on multiply fronts to advance a theory of change that is transformative in scope.

This paper will offer a human rights plan of action, reference to national and transnational reporting mechanisms and a case history of what it takes to advance socio-economic rights in Belize. While the health systems speak to HIV, we speak of health outcomes that are intersectional because we believe that ordinary citizens live single issue or single identity lives.

Section II: Systemic Challenges in Health and Rights

According to an analysis on barriers to testing and adherence report done in 2017, 6,669 were diagnosed with HIV since 1986 with 3,004 dying and 3665 living with HIV up to December 2016¹. In 2020, the system created a treatment cascade, but not on mortality, adherence nor viral suppression rates for the men who have sex with men population. Why? Is the million-dollar question! The BSS study of 2012, spoke of a 13.9%² infection rate but the MOT study of 2014, noted, an expected 63%³ rate of new infections that would be becoming from the men who have sex with men. Thirty- four years after the pandemic, we still do not know how many L.G.B.T individuals' population has died or is living with HIV. It was only in 2018, we discovered the estimated size of the population.

Global Fund reports allocating a total of \$23,950,478us⁴ in committed and disbursed funds from the Global Fund with \$12,158,058us already signed for Belize. Yet, Belize's National Strategic plan has yet to reflect more than three sentences in Belize's multisectoral response about human rights as a thematic priority. NCD's death was 67% of all death in 2018⁵, yet, we do not have any data for LGBT population for Belize, much less, men who have sex with men.

The NSP was not linked to the Horizon 2030, the national development plan, Health Sector Strategic Plan (2014-2024), and components of the National Strategic plan for TB. The management and implementation of the NSP is rooted in the UNAIDS "Three Ones Approach". A process that ignores anti-poverty interventions, heteronormative approach to sexuality, prevention and treatment and the absence of legal protections that would secure our concerns about violence and discrimination that is inclusive of socio-economic concerns about family and relationship.

With 43.4% not revealing their sexuality to anyone⁶, 61.3% and 63.2% not living with a man or women respectively⁷, but 15.7%⁸ reporting having between one or two children, and with 39.7.1% living with relative's vs 42.9% living alone and only 8% living with a male partner⁹ offers a profile about the intersection between a right to shelter, family and dignity that has not been factored into the National Strategic Plan. When violence is incorporated into systemic analysis data like murder and attempted murder of LGBT people, the three in one approach, simply, does nothing for us, beyond acknowledge in the narrative of technical documents like the HIV National Strategic Plan. Cross-

¹ Arana, Pietra, 2017, para 1, pg 18

² Arana, Pietra, 2017, (pg 23), table 7

³ Arana, Pietra, 2017, (pg 28), table 13

⁴ Global Fund grants data

⁵ Situation Analysis for the HIV/STI Viral Hepatitis and TB response 2020

⁶ Population Size estimate, pg 28, para.2

⁷ Population Size estimate, pg 28, para.1

⁸ Population Size estimate, pg 25, para.2

⁹ Population Size estimate, pg 23, Table 11

fertilization work with the National Security Plan or the Sustainable Development Strategy of 2016 - 2019 does not exist, not even in the narrative.

Prevention, treatment and support interventions for HIV service delivery is rooted in our long colonial history of a 9am to 5pm public service. With no MOH plan for outreach to MSM populations, no plan for trans health services and no budget allocation for social contracting with CSO's who have a proven record of reaching the men who have sex with men. The health system cannot claim commitment to the MSM population, when there has been no systemic move towards integration into the public health system. The International Covenant on Economic and Cultural rights note the following:

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health¹⁰.
2. The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance¹¹
3. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular¹²:

However, the reality in health budgets allocation and how thematic priorities are developed in national plans like the HIV multisectoral response, is riddled with inefficiency, bureaucratic rules, heteronormative perception of what is needed to meet targets for the MSM population in Belize for prevention. While work to advance an Equal Opportunities Bill stalled before elections, the point can be made that administrative politics discourages efficient investment into the population for prevention, care and treatment. We don't even have a treatment cascade despite estimating the men who have sex with men population at a little over 9800 in the PSE study of 2018.

Interestingly, it is, small CSO's like Empower Yourself Belize Movement and Belize Trans Colors who are the backbone of meeting Global Fund targets for outreach. Their innovative approach is a loose mechanism that give life to the right to health for vulnerable populations. Considering that 3004 have died up to 2016, with no data existing for those who dies from the MSM population, the questions must be asked is the system value administrative optics over efficient investment that supports the health of the population? With insufficient financial support to sustain out-reach work, an absent interest in reducing mortality rates, being force to subsidize the cost of outreach to meet targets, no security of a salary, benefits or secure access to social security payments in the immediate term left them open for institutional exploitation, by extension, a subsuming of the state commitment to response to the right to health of MSM population in Belize. Should a employee get shot or physically harm over the course of their work, is a non-HIV related issue. One example of that includes, the LFA meeting with them, hearing a gun shot and leaving the meeting immediately, never to report the incident to anyone formally. Violence, as we have discovered, have a cost, when one throat is cut, one is left with a nerve damage on the left side of the body and

¹⁰ Article 12

¹¹ Article 9

¹² Article 7

unable to work. This is what happened at the end of the PSE to one person, as they were engaged in trying to acquire information on DL population in Belize City to expand outreach work.

After 34 years of the epidemic, we still don't have mortality, adherence and viral load suppression rates for the men who have sex with men population, nor do we collect any deeper data on mental health, unemployment and levels of violence in doing outreach. The result is a culture of complicity by omission, inaction, and indifference in the development of visible data in health. The contradiction is that the men who have sex with men has a political and legislated presence in the HIV multisectoral response that can be leveraged to advance articles 7, 9 and 12 in any legal reform or budget allocation decisions around health service delivery. This is how, CSOs can use administrative systems to give life to the articles of the I.C.E.S.C.R

When the country speaks of SDG 5 and 6 which is concern with justice and gender equality respectively, hate crime legislation, or intimate partner violence matters are not automatic priorities in any state plan. Our contributions, to the economy as producers and consumers of goods appear nowhere in economic data. The result is systemic complicity and a practice of our citizenship being treated with a level of expendability. In simple terms, the socio-economic rights defense and burden is left with the victim of the violation. One example comes to mind the case of Tyrell Hyde. Tyrell Hyde was extorted in 2013 by police officers but did not get a negotiated settlement until 2015¹³. He still fled to the United States in 2016 for political asylum after experiencing numerous threats. Making the point that simply reporting a crime of extortion does not guarantee personal security. Inspired and additional 455 cases, we created a complaint for template¹⁴.

Even when, the police seeks to investigate a missing person, such as, 17 year old Gerado Vasquez, we discover capacity to investigate is undermined by availability of cadaver dog, skill to do forensic interviewing is non-existent, investigative tools to track down the victim phone and information to do geographic profiling of a body was not available. If it was not because of investigative support to acquire cadaver dog, or the forensic research of the United Belize Advocacy Movement work on L.G.B.T murders, the police would not have even been able to find the two legs they did in 2018. The follow-up work to ensure the mother got the DNA results of her child and tracking down her child two legs was a 736day process. She now knows her child is dead, with mere suspicion of who killed her child. The legs were buried on the 5th of October, 2020.

Crippled by state allocations in the police department, a culture of heteronormative approach to national security, gender based biases, absent of laws and policies, and right wing opponents lacking respect for rule of law, combines to have create a system that promotes unjust differential treatment that pits one social group against the next as

¹³ Tyrell Hyde case: <https://edition.channel5belize.com/archives/109159>

¹⁴ See Annex IX

they compete for use of limited state resources. A process that extends itself to data collection.

The culture of data deficiency in state systems, is reflected in the crime observatory where, not a single report features any L.G.B.T Belizean who has been killed, raped or robbed as part of its profiling; at The Statistical Institute of Belize, not a single report has been done on our economic contributions as consumers and producers of goods and services. In immigration, we are penalized in law and the justice system is unable to intervene to advance equal protection under the law because there are no subsidiary laws like hate crimes on the books to address our characteristics base concerns. The law does not recognize our family unit nor our relationship, as a result, one can argue that state has superficially invested in our education, health, employment, and legal protection which works to invisibles our needs as citizens. The result is systemic exclusions by practice and legislation. A system that according the PSE of 2018 affects 15,750 men who and 832 Belizean trans women¹⁵. A system the violates the ICCPR and the ICESCR.

When one talks about, the PSB and the ombudsman office, the disconnection between these two offices careen into confusion. We had a police brutality case of four men. Two were shot in the foot, The United Belize Advocacy Movement, took their photos, paid for their medical report and got them to the ombudsman office and sent the exact thing to the PSB, only to discover that the men where expected to repeat the exact same thing to them again. Discovering, that the ombudsman office depends on the police to investigate other police officers and that its job was to document cases, was problematic for us. Additionally, the value of the Evidence Act with regards to securing evidence, is slowed down by non-communication between the ombudsman office and the police standard branch. To discover that any formal charges against the officers, must go back through the magistrate court is a system design to frustrate. In simple terms, the police can charge you for anything, your life can be disrupted, rendered a security problem, but justice is served years later, with no guarantee of finality to the pain and suffering endured for years.

Despite the culture of complicity in our governance, the violence in our history, gay people have taken the time out to create safe spaces, even when it was illegal to be themselves.

¹⁵ CVC, 2018, (pg 133), table 148

Section III: Culture and Enforcement Mechanism

Socio-cultural context:

Representative, Orlando Habet said in 2017, in Costa Rica the following, ***“It was said that almost every main Town had a well-known Gay person. Belize city had “Shirley” and Carmen Miranda”, Orange Walk Town had “Kaya” and Benque Viejo had Giovanni Castellanos and “Chema Segura”.***

The socio-cultural structures that developed included house parties, trans pageant, partying in New York, Los Angeles or London. OASIS, Dino’s, Caesar’s were clubs in Belize that LGBT people flocked to over the years. While it was La Canta Canta, Le Pink, Africana, Babylonia and Sodomia in the border state of Quintana Roo, Chetumal City. As we moved further, we discovered clubs at Zona Rosa in Mexico City and Cancun. In El Salvador, it was San Juan Segundo, in Panama, it was Lips, In Guatemala it was Black and White and Genesis. And the list goes! Establishing that gay culture is truly transnational in scope and expectations. What about health, violence, and our contributions as citizens, it remains undocumented by the state. Our need to be at the policy table remains paramount as we leverage a transnational lens about human rights reporting to keep up the political pressure to strengthening enforcement mechanisms at the national level.

National Human Rights Infrastructure:

In the addendum replies to the list for issues for the ICCPR in 2018, Belize described these institutions as” specialized” to the extent that these institutions are spaces for advocating for budget allocations, legal reform or contributing to strategic plans, but have no enforcement or protection powers. The Universal Periodic Review of 2018, noted our human rights institution were the Ombudsman Office, and the Police Standard branch. Alluding to a systemic point, our civil rights and enforcement mechanism are weak for the State of Belize. To appreciate, this weakness, it’s important to explore dynamics of these” special” or “interim” human right institutions as they operate within the country.

Professional Standards Branch (Belize Police Department) — investigate allegations of police misconduct include police brutality; to the public and internally¹⁶;

Section 24 (1) (u) makes illegal for Police Officers to use unwarrantable personal violence or ill-treat any person in the custody of the BDP. The PSB receives citizen’s complaints, facilitates the transparent investigation of police actions, and provides an avenue for redress of wrongful police action. Depending on the severity of the allegation and outcome of the investigation, officers can be charged disciplinarily and/or criminally. Section 20 of the Constitution provides for judicial as well as civil redress.

¹⁶ Addendum of Replies of Belize to List of Issues, 14th October, 2018

24 (2)(a-i) of the Police Act, CAP 138 of the Laws of Belize, R.E. 2011 lists the punishments that may be used against an officer convicted of wrongdoing; 24(2)(h) of the Police Act provides for compensation to the victim. Section 25 of the Police Act provides for an appeal to the Belize Advisory Council for police officers where the sentence is dismissal, reduction in rank or grade.

In the year 2016 the OMB and the BDP signed a MOU. The MOU facilitates cooperation between the OMB and the BDP in the investigation of complaints, training, public education and awareness, joint field operations, and development and implementation of standard operating procedures between both entities to expedite the investigation and resolution of complaints.

This important when we see between the period 2013 and 2017, the PSB received 795 formal complaints made against Police Officer of which 234 were reported cases involving the excessive use of force.¹⁷ In 2017 there were a total of the 201 complaints made 49 were related to excessive use of force.

In 2018, the Minister of Home Affairs announced the establishment of independent offices for PSB countrywide. With this change police complaints will no longer be taken directly at the police station but rather at these independent offsite stations to ensure greater trust and confidence from the public when making reports against police officers.

National Women's Commission — advocate for and protects the rights of women.

The National Women's Commission is noted as a statutory body, established in 1982 which serves as a policy advisory body to GOB on issues of Gender Equality, Equity, and Women's Empowerment. It also monitors compliance of CEDAW as well as other regional and international obligations including the Belem do Para Convention which has a Follow-up Mechanism¹⁸.

National Committee on Families and Children —

A statutory advisory body legally established under the Families and Children Act, CAP 173, R.E. 2011 to promote, monitor and evaluate Belize's compliance with its national and international commitments to children. This coordinating mechanism also monitors the implementation of the CRC.¹⁹

National AIDS Commission —

advocates for equality of all persons including persons living with HIV; promotes safe sex; this includes development of an Equal Opportunities Bill, hate crime legislation and consequential amendments.

¹⁷ State Report UPR Report 2018 Right to Effective remedy, para. 1-3 pg 5

¹⁸ Annex 1 General background information for ICCPR, pg5, para E Institutional infrastructure

¹⁹The work of the NCFC is also guided by Belize's commitment to the implementation of the outcome of the twenty seventh special session of the General Assembly on children entitled *A World Fit for Children*, the Dakar Framework for Action adopted at the World Education Forum, and the Beijing Rules.

National Council on Aging —

An advocacy and coordinating body which facilitates the development and implementation of plans and programmes to ensure the protection of basic social and economic rights to secure the welfare of older persons.

Office of the Ombudsman (OMB) —

In 1999, an independent Office of the Ombudsman was established pursuant to the Ombudsman Act, CAP 5 of the Laws of Belize, R.E. 2011. The Ombudsman is tasked with investigating and reporting on allegations of corruption, wrongdoing and actions taken by an authority resulting in injury, injustice, or abuse. The Ombudsman takes a proactive role in promoting and protecting human rights in Belize.

The Integrity Commission (“the commission”) —

Was established under the 2007 Prevention of Corruption Act. The Commission implements the financial disclosure requirements for persons in public life and makes such inquiries as necessary into alleged violations of the Prevention of Corruption in Public Life Act, CAP 12 of the Laws of Belize, R.E. 2011. In January 2017 a new commission of seven members were appointed in accordance to the Prevention of Corruption Act. They were appointed to serve for a period of two years, with effect from 1st January 2017.

While the state has a crime observatory that collects data on murders, gender-based violence, robberies, it does not collect any data on LGBT murders. In essence, rendering the LGBT population as non-existent victims of crime. While the United Belize Advocacy Movement has been managing its Human Rights Observatory for 10 year, it was only in 2017 that it was able to incorporate legal services to strengthen the operation of its observatory. That support amounted to \$111,512 bze with \$36,350 or 32.6% going to legal services from Global Fund resources given. More broadly, we raised \$2,074,610 in our 14 years of operations, but when compared to Global Fund resources, it only represents an estimated 5.4% of our total operation cost over 14 years.

The work of the observatory include, writing stakeholders reports to the Universal Periodic Review and the International Covenant on Civil and Political Rights Human Rights Committee; thematic hearing presentation at the Inter-American Commission; Commonwealth Engagement; lobbying for L.G.B.T resolutions since 2008; legal reform advocacy E.O.B and hate crime legislation, developing a framework for trial and investigative advocacy with partner Tikkun Olam to support victims; mitigation support to victims of violations; advocacy for budget allocations for human rights; media advocacy, documenting and digitizing media reports of crime and violence; investment in security camera services for the Orange Walk Police Department; advocacy for the development of an intervention policy by the police department, advocacy to advance the development of a national human right institution; Data aggregation and

disaggregation by population; Forensic analysis of violence vulnerability, legal research program, legal and policy monitoring. As a result, we developed a 31% closure rates in our documented cases for 456 cases documented. Many of our cases are one year or more old. They do not follow-project years but legal years.

Interestingly, the state acknowledges the work civil society organizations are doing in its ICCPR submission that was received by the Human rights Committee in 2017 in the following way:

A small but relatively active group of NGOs devoted to different aspects of human rights, play an important role in promoting and protecting human rights in Belize. The work of these organizations, such as the Human Rights Commission of Belize, the Belize Council of Churches, Generation Zero, and the United Belize Advocacy Movement (UNIBAM) include advocacy, public education, and awareness and programmed implementation.

Human Rights Infrastructure:

It its ICCPR report of 2017, Belize said the following words which is not completely true for LGBT Belizeans

The Constitution of Belize guarantees the protection of the fundamental human rights and freedoms entrenched therein. Other domestic legislations that protect these rights are the Ombudsman Act; the Freedom of Information (Amendment) Act; the United Nations Resolutions and Convention (Enforcement) Act; the Pensions Act; the Widows' and Children's Pensions Act; and the Education Act. Table I of Annex III contains a list of domestic legislation relating to the protection of human rights of Belizeans.²⁰

In addition legislation specifically implements provisions of international human rights and humanitarian treaties such as the Genocide Act, the Refugees Act, the International Child Abduction Act, International Labor Organizations Convention Act, the Belize Red Cross Society Act and the Trafficking in Persons (Prohibition) Act. The United Nations Resolutions and Convention (Enforcement) Act provides generally for the enforcement in Belize of United Nations resolutions.

Belize is a party to the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Elimination of all Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and the optional protocol thereto; the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, the Convention on the rights of the Child and its optional Protocols, the Convention on the Rights of Persons with Disabilities, the Convention on the Economic, Social and Cultural Rights, the Convention on the Reduction of Statelessness, the Convention for the Protection of All Persons from Enforced Disappearance, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

It is also a party to the Convention of Belem do Para or the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, the Inter-American Convention on Support Obligations, Inter-American Convention against Corruption and the International Convention on the Protection of the Rights of all Migrant Workers and their Families.

Belize is also a party to the major international conventions relating to trafficking in persons, smuggling of migrants, status of refugees, international labor organization conventions, the Hague Conventions on inter-

²⁰The Constitution, Op.Cit., §3-§19.

country adoption of minors as well as other international humanitarian law treaties such as the 1949 Geneva Conventions and their protocols²¹.

Many of our CSO are programmatic short-term interventions, not long-term and policy driven. As a result, project base responses, must develop creative approaches that allow legal transformation and change. What is clear, is the pressure to address civil rights and programmatic intervention simultaneously, remains the function of Civil Society.

²¹ ANNEX 1 General Background Information ICCPR

Section IV: Transnational Human Rights Institutions

Leveraging OAS Systems:

PM 155/13 was issued by the Inter-American Commission with the help partners from the State department, partners in region and the LGBTI Unit in 2013, noting the following:

“On May 29, 2013, the IACHR granted precautionary measures for Caleb Orozco, in Belize. The request for precautionary measures indicates that Caleb Orozco is in a state of risk as a result of his work defending the rights of lesbian, gay, bisexual, trans, and intersex persons in Belize. Specifically, the petition alleges that Caleb Orozco has been subject to harassment and attacks at his home and on the streets, and he has received death threats via social media. It further alleges that even though he has filed complaints with the police, the authorities are not providing measures to protect his life and safety. The IACHR asked that the State of Belize take the necessary steps to ensure the life and physical integrity of Caleb Orozco, that it come to an agreement with the beneficiary as to the measures to be taken, and that it inform the Commission about the steps taken to investigate the facts that gave rise to the adoption of precautionary measures²².”

While the issuance of the measure had political value as a human rights defender, in practice, I learnt that there was no coordinated communication between state apparatus. The result was that I carried the burden of looking over my shoulder while walking the streets, catching a bus, or getting a taxi. I even learnt that the measure issued used to the wrong person and that they had to correct it in Guatemala.

While this precautionary measure did not make the news, the one from the UN Special rapporteur on the promotion and protection on the right to freedom of opinion and expression and the special rapporteur about human rights defenders was issued in 2012. The letter even made it on channel five news on August 8th, 2012, which noted, “It was a first case...The UN Special Rapporteurs on the promotion and protection on freedom of expression and on the situation of human rights defenders have both written to the government seeking answers on the incident. Again, the burden of personal security was left with the person. Again, enforcement systems, depends on a driver, international partners like the International Commission of Jurists and Global rights partners in the years of seeking personal protection in 2013 and 2014.

The OAS thematic hearings²³ offer ordinary Belizeans a chance to get a hearing approved around an area of concern. For UniBAM we got the chance to make a request online and ask our partners at Global rights now, Synergia, to lobby for its approval. The hearings made it to the Amandala, Plus TV and Channel 5 in April, 2014. While the effects of the hearing led to national coverage and opposition to lodging a complaint in

²² Precautionary measures

²³ OAS Thematic hearings, April, 2014

the media, it also resulted in a dialogue with the Belize Ambassador Mendez afterwards. A first in our history of high-level political engagement that accumulated over the years. The value was the public optics of access to international spaces that local politician's thought was exclusively theirs.

While the Inter-American Court has legal value, Belize have not sign unto the convention, as a result, we do not have access to it as a court of last resort. UniBAM worked in the OAS system since 2008 and have seen LGBT resolutions advanced in language for over a decade and have gotten, the government of Belize to co-sponsor the LGBT resolutions at the OAS twice since 2018. Again, the resolution, by itself has no national weigh for its not binding, but the political and diplomatic value showed that there was a substantial shift of tone to political substance in Belize in particular. Additional systems include the use of the rapporteur ship and the Inter-American Commission²⁴.

Leveraging the I.C.C.P.R and U.P.R:

In 2009, the government accepted recommendations 10 and 11 which calls for development of a national human rights institution and a systemic evaluation to conduct a feasibility study to advance its development²⁵. In 2014 work was done to engage the regional office of the Office of the Commission for Human Rights in Panama with Carla Covarrubias, the Ombudsman Office, the CEO for the Ministry of Foreign Affairs, Alexei Rosado, complementing research with our Global list SOGI listserve with the outcome that government does not have money to advance the recommendation. In January 2018, a Community meeting was organized by the Director of Protocol, Said Guerra at the Laing building with The Minister of Foreign Affairs, Sedi Erlington. The outcome of that meeting lead to the Minister instructing his technical staff Orla Coleman to ensure funds were found to give life to the recommendations of the UPR of 2009. A consultation took place with state systems through the commonwealth secretariat, but progress, it was agreed could not be achieved without civil society involvement and it was agreed to carry out a national consultation in 2020, which never happened due to COVID. The recommendation popped up in 2013 and 2018 for the UPR cycle and I.C.C.P.R as well. We even agreed to support the ICJ process for the Belize Guatemala dispute and an LGBT organization with funds given by the O.A.S. a strange moment!

The lesson learnt about leveraging international treaty obligation reporting is that it requires a driver to advance the recommendations with a clear vision of long-term action. It took nine years to make progress on the recommendations. In addition, got a meeting with the Minister of Immigration, the next day to deal with immigration concerns regarding LGBT visitors.

²⁴ See Annex I and II

²⁵ UPR Report 2009



Recommendations 12²⁶ and 18²⁷ found its way into the UPR recommendations that was acted in the Universal Periodic Review in 2009.²⁸ These recommendations about HIV eventually made it into The Global fund project in 2015 with the development of module seven which included a legal review in 2017.

Significant legal reform in 2009 was not contemplated, especially by the government, its response to legalizing same sex intimacy spoke of needing, “extensive national consultations” and that it did not have, “mandate to effect change.” The launch of section 53²⁹ one year later, provided enforcement cover for the state while we worked to get the National AIDS Commission to incorporate recommendation for removal of the sodomy law as part of its legal review. Even so, we discovered that while the NAC operational value has a human rights approach, litigation, freezes all commitment to that approach. For the Commission was asked to issue a statement in support of section 53, but we were told there was a gag order on all Ministries. Recognizing that strategic litigation has political value, we noticed a shift in political tone in 2013 that moved from noted to accepting 17 of 19³⁰ recommendations issued by the LGBT stakeholders in 2018.



These recommendations showed up, in our List of Issues submitted in 2013 for the ICCPR and in our stakeholder’s report submitted in 2018, right along with our call for

²⁶ to provide human rights training with regard to the protection of the vulnerable groups, in particular women, children, indigenous peoples, and persons of minority sexual orientation or gender identity, to law enforcement officials, judicial officers, and all state officials

²⁷ To further strengthen activities directed to HIV prevention as well as against stigma and discrimination of HIV positive people;

²⁹ To take appropriate legislative measures in order to ensure that no person can be subject to criminal sanctions for same-sex activity between consenting adults

³⁰ UPR Report 2018

anti-discrimination legislation. The United Belize Advocacy Movement did not start the legal review, but we created our own in 2010 for the LGBT Belizeans, we harness a legal research program with the University of Michigan Law Clinic, we lobbied with our partners at Kaleidoscope Trust and the Commonwealth Equality Network that led to the development of a 5.6m pound project called The Equality Justice Alliance which facilitated close to \$300,000us dollars in technical and financial assistance to generate the development of the Equal Opportunities Bill. In addition, UniBam gave \$10,000 to support CSO participation and publication of the Bill. The introduction to our partners happened at CHOGM 2018 in London. Not lost on us, is that Human Dignity Trust were the lawyers who argued the international treaty obligations commitments by Belize against section 53 while URAP remain the lead in case management and arguments.



When Jennifer Chan was hired in 2017, UniBAM drafted the first cabinet note at the end of 2018 and circulated it to the NAC. It was not till, February 2019 that a final draft was submitted and sent to cabinet after review from the National Working Group, with the support of the Special Envoy political championing. If it was not for the introduction of the Chair and the Special Envoy to our partners, Belize would not have had a draft Bill to be sent to cabinet in September 2020. The most important thing here, is that it was a CSO/State partnership that organically developed into a legal reform process. What it showed is the power of two women, Mrs. Laura Longsworth and Mrs. Kim Simpliss Barrow who led the way to advance legislation that did not exist among any CARICOM country that included sexual orientation and gender identity. While Trinidad and Tobago, came close, they excluded sexual orientation and gender identity in their list of protections.

Section V: Political Outcomes

In 2009 no recommendations were accepted at the UPR review, but in 2013, 15 recommendations were either noted or support for the UPR while in 2018, 17 of 19 recommendations was supported. It is important to note that a total of nine countries brought up the National human rights Institute in the 2013 Universal Periodic Review.

After 18 years of not reporting to the Human Rights Committee for the International Covenant on Civil and Political Rights, Belize accepted nine related recommendations on LGBT concerns. No other CARICOM country can claim state support that have evolved over 10 years of reporting done by the United Belize Advocacy Movement

Outcome of ICCPR 124 session concluding observations by human Rights Committee for the ICCPR in 2018 revealed seven recommendations given in the following.

- (a) repeal section 53 of the Criminal Code and decriminalize same-sex sexual conduct between consenting adults.
- (b) explicitly reject any form of social stigmatization, discrimination and violence against persons based on their sexual orientation or gender identity and undertake to combat hate speech by public or private persons targeting lesbian, gay, bisexual, transgender and intersex individuals.
- (c) remove any barriers to the enjoyment of rights by lesbian, gay, bisexual, transgender and intersex individuals.
- (d) facilitate access to justice by victims of harassment, violence and police abuses, including by strengthening trust between lesbian, gay, bisexual, transgender and intersex individuals and State authorities and increasing the financial and human resources of complaint-receiving bodies such as the Professional Standards Branch; and
- (e) ensure the investigation, prosecution and punishment of any act of violence motivated by the victim's sexual orientation or gender identity and ensure the systematic collection of data about such acts.
- (f) adopt comprehensive civil and administrative legislation against discrimination that includes a definition of discrimination, both direct and indirect, including in the private sphere, and contains a non-exhaustive list of grounds of discrimination, including, inter alia, language, religious belief, sexual orientation and gender identity;
- (g) provide access to effective and appropriate remedies for all victims of discrimination; and
- (h) review section 5 (1) of the Immigration Act (2000) and ensure that any person who has been denied entry on such discriminatory grounds has access to effective remedies³¹

The Committee for the ICCPR lecture the state in comment about the state inaction in maintaining discriminatory law. Excerpt establish a line of questioning that is insight ful in the summary record of the 107 session of the ICCPR in 2013.

10. He noted that the definition of non-discrimination in the Constitution, which provided the basis for the implementation of national legislation, was very restrictive and did not comply with international standards on the subject, as it did not include certain

³¹ Concluding recommendations on the initial report by the CCPR Human Rights Committee 11th December 2018

grounds for discrimination such as social status or sexual orientation. He would have liked to know whether the State party intended to amend that definition.

11. In its written replies, the State party had said that it had no statistics on prosecutions and convictions of perpetrators of acts of discrimination or violence based on sexual orientation. Nevertheless, the information received from NGOs showed that many cases of discrimination and ill-treatment were based on that ground and that the State party lacked the political will to tackle the problem. Regarding the steps taken to decriminalize homosexuality — described as unnatural in the Criminal Code and punishable by a 10-year prison sentence — the State party referred to the *Caleb Orozco* case, in which the article of the Criminal Code that criminalized homosexuality was being challenged as unconstitutional, and noted that the Government had decided to maintain a neutral position in the case. He wondered why the Government was maintaining a neutral position in the face of a blatantly discriminatory measure and considered that refraining from taking a position on the issue was conducive to the spread of homophobia. Furthermore, it might be wondered how the State party could justify the existence of the prohibition, under the Immigration Act, of the immigration of certain persons to the country on the basis of their sexual orientation, while the Constitution of Belize provided that no law could contain discriminatory provisions.

In addition, in November 2018 Belize was asked to reply to these lists of issues by the Human Rights Committee for the ICCPR.

Repeal section 53 of the Criminal Code and decriminalize same-sex sexual conduct between consenting adults

Reject any form of social stigmatization, discrimination and violence against persons based on their sexual orientation or gender identity

Combat hate speech by public or private persons targeting LGBTI individuals

Remove any barriers to the enjoyment of rights by LGBTI individuals

Facilitate access to justice by victims of harassment, violence and police abuses

Strengthen trust between LGBTI individuals and State authorities

Increase the financial and human resources of complaint-receiving bodies

Ensure the investigation, prosecution and punishment of any act of violence motivated by the victim's sexual orientation or gender identity and ensure the systematic collection of data about such acts.

Belize's reply in the list or issues report on hate crime left much to be desired, during the ICCPR review in 2018. It said, " There are cases involving violence by LGBTI individuals against other LGBTI individuals, however there are no confirmed cases where it is motivated by hate. Where there are cases motivated by hate, such cases are isolated." Interestingly, The Crime Observatory in the Ministry of National Security does not collect a single data point on LGBT Belizeans as victims of crime.³² It was only in 2019 we started a discussion to develop an intervention police policy for persons we are

³² State replies to List of issues for the CCPR, November, 2018

detained or victims of violence. A process that was triggered by the case of PC Gillette and Arburnie Clare who was roughed up by police on Caye Caulker³³.

Outside of UniBAM consistently collecting data on LGBT violence, no other state agency has seen any value in doing case management, provide legal support or guidance. While we have progressed with the development of hate crime amendments to the criminal code, the actual procedure for investigation and providing support to victims of violence remain lacking in the system.

What is clear is that the ICCPR Human Rights Committee can ask questions, the state can reply, but it is left up to CSO's to lobby for systemic change in policing. In simple, terms engagement with UN treaty bodies, does not translate to technical and financial resources on the ground automatically. In addition, victims of violence are challenged to report their experiences because of trauma and accumulated homophobia in their communities. If this continues the state can claim cases are isolated, that gay on gay crime is the rule not the exception. The result, is no urgency in the response.

³³ <https://www.youtube.com/watch?v=IMD5bRG9tQg>

Section VI: The International Treaty Obligations:

While Belize has ratified nine obligations³⁴, it had not signed unto the related protocols³⁵ that allow for individual complaints by its citizens to the UN. This is understandable for it took 18 years to write an ICCPR state report, with a back log of reports. It states

“Regarding its backlog in reporting to treaty bodies, Belize submitted its national report under the International Covenant on Civil and Political Rights (ICCPR) in 2017 Belize has prioritized reporting under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), the [Convention on the Rights of the Child](#) (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), for submission in 2018/2019. In 2018 a Treaty Body Capacity Building Workshop was held, which focused on the process of preparing national reports under the ICERD and ICMW.”³⁶

The paragraph from the UPR State report reflects the state has challenges to keep-up with its report obligations. If it can take 18 years to make a report to the ICCPR, it took equally, as long in advancing law reform at the national level with an established institution under the office of the Prime Minister. While it set up the NAC as a specialize, human rights institution, it took the NAC 11 years to move from legal review in 2008 to Bill drafting in 2019. Without a driver to facilitate resources, we would not have had the development of the consequential amendments, the Equal Opportunities Bill and Hate Crime amendments. A CSO/state partnership becomes crucial in this regard.

While important to understand UN systems³⁷ its equally important to understand how legal reform works at the national level. In general, it has a national process of public consultations, but it requires international financial and technical assistance to drive reform forward. The EOB effort offers important lessons in advancing legislation.

As ordinary citizens we hear of the Attorney General office, but we never hear of LGBT cases heard at the UN level³⁸. At the national level it was section 53, but at the international level most Belizeans would not have heard of the case of Toonan vs Australia.

Internally, with 43% of the population living in poverty, an unemployment rates of 15% for men who have sex with men, Belizeans remain in survival mode where any legal disruptions to their lies cannot be afforded. The function of international treaty obligations³⁹ has its value, but for ordinary LGBT individuals trying to navigate a system

³⁴ Annex V

³⁵ Annex VIII

³⁶ Advance Version of UPR Belize Report 2nd October, 2018

³⁷ Annex III

³⁸ Annex IV

³⁹ Annex V

that offers little legal or institutional protection, international treaty obligations are of little value.

Interestingly we see government making claims about all the legislation⁴⁰ that protects human rights in its state report but fails to acknowledge the exclusionary nature of those laws against LGBT Belizeans.

⁴⁰ AnnexVI

Section VII: Lessons Learnt

Civil Rights enforcement has an important foundation in CSO/State partnership, if it was not for UniBAM ability to advocate in 2017 for greater investment in human rights that leverage resources from the Global Fund process to strengthen its Human Rights Observatory, we would not be talking about any civil rights framework.

If UniBAM did not lead in litigation of section 53 in 2010, facilitated an introduction of our Special Envoy and the NAC to Human Dignity at a Commonwealth Heads of Government meeting in 2018 in London, we would not have the EOB, the consequential and hate crime amendments developed in Belize.

With the development of UNIBAM came the realizations that our HIV response had a liberations framework that was health specific and a civil rights framework that was rights specific. The outcome that developed was a data framework, a strategic plan, a police intervention policy, the generation of five CSO that work with LGBT issues, hate crime discussions, and a victim, trial and investigative advocacy framework.

While we discovered a structure to input data with, the CVC SIDs database, but fail to strengthen our national data system with digitization investments for UNIBAM human rights observatory. Along the way, we discovered that systemic bias in the system and a desire to mainstream inclusive justice and give life to SDG 16 which promotes justice.

We discovered that while there an Inter-American Court, a court of last resort for many countries in Latin America, its not available to most Belizeans. While there are Human Rights Committees for treaty obligations, Belize does not accept international rapporteurs or Commissioners formal access to our system. The result is political control at the price of reduce investments in our justice system.

Administrative practices and hinder or give life to many of the treaty obligations that Belize has ratified, but it takes national advocacy drivers to breathe life into Belize Obligations.

Along the way a human right plan of action was developed that is still evolving, to looking at systemic transformation. It is only a snapshot of systemic priorities, it has not been costed, tested nor examined for it application to the health system.

We do know that inter-ministerial planning and advocacy does not exist in the current strategic plan, nor is there monitoring of existing plans with cross-fertilization of interventions. The result is a governance, that offers a basic response to quality of life issues that maintains a system of marginalization that undermines treaty obligations.

Section VIII: ANNEX I-Inter-American Commission function:

Inter- American Commission function

- It can carry out country visits
- Holds thematic hearings
- Publishes studies and reports
- Request adoption of precautionary measures
- Established several thematic rapporteurships
- Individuals, groups of individuals, and non-governmental organizations recognized in any OAS Member State may submit complaints (petition).
- The Commission is empowered to create rapporteurships that are dedicated to areas of special interest.

Section IX: ANNEX II- Rapporteur function:

Rapporteurship
function



Section X: ANNEX III-UN Systems

Charter-based bodies

- Human Rights Council
- Universal Periodic Review
- Commission on Human Rights (replaced by the Human Rights Council)
- Special Procedures of the Human Rights Council
- Human Rights Council Complaint Procedure

Treaty-based bodies

There are ten human rights treaty bodies that monitor implementation of the [core international human rights treaties](#):

- Committee on the Elimination of Racial Discrimination (CERD)
- Committee on Economic, Social and Cultural Rights (CESCR)
- Human Rights Committee (CCPR)
- Committee on the Elimination of Discrimination against Women (CEDAW)
- Committee against Torture (CAT)
- Committee on the Rights of the Child (CRC)
- Committee on Migrant Workers (CMW)
- Subcommittee on Prevention of Torture (SPT)
- Committee on the Rights of Persons with Disabilities (CRPD)
- Committee on Enforced Disappearances (CED)

Section XI: ANNEX IV-UN LGBT CASES

UN Human Rights Committee [\[edit \]](#)

Date of ruling ↕	Case ↕	Court ↕	Topic ↕
1985	Hertzberg et al. v. Finland ^[61/1979]	UN Human Rights Committee	Freedom of assembly, expression and association
1994	Toonen v. Australia (488/1992)	UN Human Rights Committee	Criminalization or detention
2002	Joslin v. New Zealand ^[902/1999]	UN Human Rights Committee	Registration of partnership
2003	Young v. Australia ^[941/2000]	UN Human Rights Committee	Housing tenure, social and employer's benefits
2005	X. v. Columbia ^[52]	UN Human Rights Committee	
2012	Fedotova v. Russia ^[53]	UN Human Rights Committee	Freedom of assembly, expression and association
2014	Praded v. Belarus (2029/2011)	UN Human Rights Committee	Freedom of assembly, expression and association
2016	Androsenko v. Belarus (2092/2011)	UN Human Rights Committee	Freedom of assembly, expression and association
2017	G. v. Australia (2172/2012) ^[54]	UN Human Rights Committee	Gender reassignment and its consequences
Ongoing	Aleksyev v. Russia , № 1873/2009	UN Human Rights Committee	

The Function of International Treaty Obligations

- They are advocacy tools to advance policy and legal reform for various populations eg indigenous populations, women, children, disabled and to an extent L.G.B.T populations and sex workers.

Leveraged action:

- Develop national protocols and policies for gender-base violence, interaction policy with the police department for LGBT, persons with disability and sex workers or victims of crime.
- Offer budget allocations demands to the state to shape a victim advocacy framework that include building police capacity to investigate and deal with trauma.
- It can lead to law reform opportunities EOB, Family law reform, hate crime legislation
- They can support litigation in our constitutional Courts eg Maya, Roches and section 53

Section XIV: ANNEX VI-List of laws that Protect Human Rights

List of tables and figures

Table I:

List of Principal Substantive Legislation which protect the fundamental human rights and freedoms of individuals in Belize.

<i>Name of Act</i>	<i>Chapter No.</i>	<i>Name of Act</i>	<i>Chapter No.</i>
Interpretation Act	1	School Teachers Pensions Act	42
Belize Constitution Act	4	Social Security Act	44
Ombudsman Act	5	Social Service Agencies Act	45
Freedom of Information Act	13	Village Councils Act	88
Freedom of Information (Amendment) Act, 2008	No. 7 of 2008		
United Nations Resolutions and Convention (Enforcement) Act	24	Court of Appeal Act	90
Pensions Act	30	Supreme Court of Judicature Act	91
Widows' and Children's Pensions Act	32	Family Courts Act	93
Education Act	36	Evidence Act	95
		Evidence (Amendment) Act, 2012	No. 1 of 2012

<i>Name of Act</i>	<i>Chapter No.</i>	<i>Name of Act</i>	<i>Chapter No.</i>
Public Health Act	40	Indictable Procedure Act	96
Criminal Code	101	Protection Against Sexual Harassment Act	107
Juvenile Offenders Act	119	Probation of Offenders Act	120
Genocide Act	110	Certified Institutions (Children's Reformation) Act	121
Prisons Act	139	Intoxicating Liquor Licensing Act	150
Immigration Act	156	Belizean Nationality Act	161
Refugees Act	165	Married Persons (Protection) Act	175
Families and Children Act	173	Married Women's Property Act	176
Marriage Act	174	International Child Abduction Act	177
Domestic Violence Act	178	Administration of Estates Act	197
Wills Act	203	Labour Act	297
Trade Disputes (Arbitration and Inquiry) Act	299	Trade Unions Act	300
Wages Council Act	302	Workmen's Compensation Act	303
International Labor Organization Convention Act	304	Belize Red Cross Society Act	309

<i>Name of Act</i>	<i>Chapter No.</i>	<i>Name of Act</i>	<i>Chapter No.</i>
Non-Governmental Organizations Act	315	General Registry Act	327
Penal System Reform (Alternative Sentences) Act	102	National Institution of Culture and History Act	331
Trafficking in Persons (Prohibition) Act	No. 2 of 2013	Prevention of Corruption Act	105
		Prevention of Corruption Act, 2007	No. 21 of 2007
Commercial Sexual Exploitation of Children (Prohibition) Act	No. 3 of 2013	Juries (Amendment) Act 2011	128

BELIZE'S RATIFICATION REALITY

- CAT: Convention Against Torture
- CRC: Convention on the Rights of A child
- ICERD: Convention to Eliminate Racial Discrimination
- CEDAW: Convention to Eliminate all forms of Discrimination Against Women
- ICCPR-International Covenant on Civil and Political Rights
- CED: Convention for the protection of all persons from Enforce disappearance.
- ICESCR: international covenant on Economic, Social and Cultural Rights
- CMW-Convention on the protection of the rights of all Migrant Workers
- CRPD: Convention on the Rights of Persons with Disabilities

Section XVI: ANNEX VIII-UN Individual Complaints procedure

Acceptance of individual complaints procedures for Belize

Treaty	Acceptance of individual complaints procedures	Date of acceptance/non acceptance
CAT, Art.22 - Individual complaints procedure under the Convention against Torture	N/A	
CCPR-OP1 - Optional Protocol to the International Covenant on Civil and Political Rights	NO	
CED, Art.31 - Individual complaints procedure under the International Convention for the Protection of All Persons from Enforced Disappearance	-	
CEDAW-OP - Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women	YES	09 Dec 2002
CERD, Art.14 - Individual complaints procedure under the International Convention on the Elimination of All Forms of Racial Discrimination	N/A	
CESCR-OP - Optional protocol to the International Covenant on Economic, Social and Cultural Rights	NO	
CMW, Art.77 - Individual complaints procedure under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	N/A	
CRC-OP-IC - Optional Protocol to the Convention on the Rights of the Child	NO	
CRPD-OP - Optional protocol to the Convention on the Rights of Persons with Disabilities	NO	

Section XVII: ANNEX IX- Victim complaints form

COMPLAINT OF
[name of complainant]

I, **Miguel Can**, [insert **address**] Belize makes oath and says the following statement:

1. The facts contained in this affidavit are, save where is otherwise stated or appears from the context, within my own personal knowledge and are, to the best of my belief, true and correct.

The Complainant

2. Include your age, your occupation, your sexual orientation [include description of complainant]

Facts

3. Please include how the police treated you [include details of incident of discrimination or violence]

Response of Public Authority

4. [include details of the response or lack of response from public authority. If no public authority has been contact, states reasons for this]

Consequences of Violation

5. State here how it made you feel, anything you think is helpful [include details on how the incident has affected the complainant's life, financially, emotionally, physically]

SWORN to at Belize City, Belize)

this day of [month], [year])

[name of complainant]

BEFORE ME:

JUSTICE OF THE PEACE/COMMISSIONER OF THE SUPREME COURT

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