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Human Rights Committee

**Consideration of reports submitted by States
parties under article 40 of the Covenant**

Initial reports of States parties due in 2015

Belize*

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* The present document is being issued without formal editing.

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Foreword

The International Covenant on Civil and Political Rights (ICCPR) is one of the core human rights treaties and is regarded as one of the three pillars of the International Bill of Human Rights along with the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights. The ICCPR was adopted in 1966 and entered into force in 1976. Belize acceded to it 20 years later in 1996. However, both the spirit and letter of the ICCPR was, in the main, already being implemented and applied in Belize since our independence in 1981.

By large measure many of the provisions of the ICCPR are enshrined in the Constitution of Belize. This is a testament both to the firm and enduring commitment of Belize to human rights as well as the fundamental nature of the ICCPR to freedoms and human rights of citizens in a democratic society. The Covenant covers a range of civil and political rights, including: physical integrity rights, individual liberty, political participation, non-discrimination and equal application of the law.

Though the provisions of the ICCPR are deeply embedded in the Belizean ethos, Belize is committed to guarantee that individuals shall have full enjoyment of the exercise of these rights.

In line with Belize's reporting obligation under the ICCPR, Belize has prepared a combined initial and periodic report on the measures adopted to give effect to the rights recognized in the Covenant, and on the progress made in the enjoyment of those rights. The Report speaks to the progressive efforts of the Government to ensure that Belizeans have full exercise of the rights contained in the ICCPR and by extension the Report inevitably sheds light on the functioning of Belize's democracy.

The Report which follows is the result of a transparent and inclusive process involving all of Government and benefiting from the input of civil society.

Acronyms

AIDS:	Acquired Immune Deficiency Syndrome
ARVT:	Antiretroviral Treatment
ATIP:	Anti-Trafficking in Persons Council
BAC:	Belize Advisory Council
BFC:	Belize Family Court
BCP:	Belize Central Prison
The Constitution:	Belize Constitution Act
BFLA:	Belize Family Life Association
BPD:	Belize Police Department
BTB:	Belize Tourism Board
CAP:	Chapter
CARICOM:	Caribbean Community
CoA:	Court of Appeal
CCJ:	Caribbean Court of Justice
CEDAW:	Convention on the Elimination of all Forms of Discrimination Against Women
CEO:	Chief Executive Officer
CFATF:	Caribbean Financial Action Task Force
CM:	Court Martial
CO:	Commanding Officer
CP:	Commissioner of Police
CRC:	Convention on the Rights of the Child
CRD:	Community Rehabilitation Department
CSEC:	Commercial Sexual Exploitation of Children
DHS:	Department of Human Services
DINS:	Director of Immigration and Nationality Services
DPP:	Director of Public Prosecutions
DVA:	Domestic Violence Act
FACA:	Families and Children's Act
CFATF:	Caribbean Financial Action Task Force
FVU:	Family Violence Unit
FIU:	Financial Intelligence Unit
FY:	Financial Year
GDP:	Gross Domestic Product
GEWEE:	Government on Issues Affecting Gender, Equality and Women's Empowerment
GG:	Governor General
GLC:	General Legal Council

GoB:	Government of Belize
HIV:	Human Immunodeficiency Virus
HPV:	Human Papilloma Virus
HoR:	House of Representatives
HRCB:	Human Rights Commission of Belize
ICCPR:	International Covenant on Civil and Political Rights
IUD:	Intrauterine Device
IEC:	Information, Education, and Communication
INS:	Immigration and Nationality Services
IOM:	International Organization for Migration
ISSI:	Inspector of Social Services Institution
JLSC:	Judicial and Legal Services Commission
KF:	Kolbe Foundation
LGBT:	Lesbians, Gay, Bisexual and Transgender
Opp:	Leader of Opposition
LSMS:	Living Standards Measurement Survey
MMR:	Maternal Mortality Ratio
M&E:	Monitoring and Evaluation
MDG:	Millennium Development Goal
MLTPA:	The Money Laundering and Terrorism (Prevention) Act
Ministry of Human Development:	Ministry of Human Development, Social Transformation and Poverty Alleviation
MoH:	Ministry of Health
MNS:	Ministry of National Security
MoU:	Memorandum of Understanding
NAC:	National Aids Commission
NCA:	National Council on Aging
NCFC:	National Committee for Families and Children
NGBVAP:	National Gender-Based Violence Action Plan
NGO:	Non-Governmental Organization
NHI:	National Health Insurance
NOPCAN:	National Organization for the Prevention of Child Abuse and Neglect
No.:	Number
NTUCB:	National Trade Union Congress of Belize
NWC:	National Women's Commission
Omb:	Office of the Ombudsman
OAS:	Organization of American States
PAHO:	Pan American Health Organization

PM:	Prime Minister
PC:	Prison Controller
PSB:	Professional Standards Branch
PUC:	Public Utilities Commission
REC:	Refugee Eligibility Committee
RCF:	Residential Care Facilities
ROPA:	Representation of the People's Act
RTC:	Revised Treaty of Chaguaramas
SC:	Supreme Court
SMS:	Short Messaging Service
SOP:	Standard Operating Procedure
SIB:	Statistical Institute of Belize
SRHP:	Sexual Reproductive Health Policy
SRH:	Sexual and Reproductive Health
STI:	Sexually transmitted Infection
TIPS:	Trafficking in Persons (Prohibition) Act
UDHR:	Universal Declaration of Human Rights
UN:	United Nations
UNIBAM:	United Belize Advocacy Movement
UNHCR:	United Nations High Commission for Refugees
UNICEF:	United Nations Children's Fund
VIA:	Visual Inspection with Acetic Acid
VSU:	Vital Statistics Unit
WIN:	Women's Issues Network
WIP:	Women In Politics
WD:	Women's Department
YES:	Youth Enhancement Services

Part I Introduction and Methodology

1. Belize is firmly committed to the protection and promotion of human rights as evidenced by its Constitution, its framework of domestic legislation, ratification and adherence to international human rights treaties and its system of national agencies and non-governmental organizations.
2. Belizean culture, democratic history and legal tradition has infused in Belizean society and government a deep respect for those fundamental human rights articulated in the Preamble and Part II of the Belize Constitution. Such fundamental rights and freedoms as the right to assembly, the right to free speech and the right to due process are not only protected by the country's Constitution but also vigilantly guarded by Belizeans themselves.¹
3. As a developing country Belize views development as inextricably bound to the fulfilment of human rights making the right to development a fundamental right itself as asserted by the Declaration on the Right to Development. Thus, the Government of Belize (GoB) has consistently adopted a human rights based approach in development planning, social services and general policy formulation and execution.
4. To complement the report prepared jointly by the Ministry of Foreign Affairs and the Attorney General's Ministry, pursuant to Article 40 of the ICCPR, extensive group consultations were carried out with Ministries and Departments of Government, social agencies and non-governmental organizations (NGOs). The report follows the c/2009/1 Guidelines of the ICCPR.
5. This is Belize's initial report and combined reports for the period 1997-2014. The report comprises a first part comprising introduction and methodology and general background information on Belize (Annex 1); the second part addresses Belize's responses to the respective Articles; the third (Annex II) responds to the *Concluding Observations on Belize in the Absence of a Report*, adopted by the Committee at its 107th session on 11-28 March, 2013 (CCPR/C/BLZ/Co/1); and the fourth part (Annex 4) contains supplementary information to the Report.

Part II Information on the articles of the Convention

Article 1

6. Belize, a sovereign democracy, has a written Constitution which is the supreme law of the land. Section 3 of the Belize Constitution Act, CAP 4 of the Laws of Belize, R.E. 2011 ("The Constitution") entitles all persons in Belize with the fundamental rights and freedoms of the individual, irrespective of race, place of origin, political opinions, colour, creed or sex, subject only to the fundamental rights and freedoms of others and for the public interest.
7. Upon attaining independence in 1981, Belize adopted a Constitution based on the Universal Declaration of Human Rights (UDHR). Those enshrined in the Constitution are

¹ Under Belize's Constitution, and in laws of Belize, a wide range of fundamental rights are guaranteed. Part II of the Constitution guarantees the protection of fundamental rights and freedoms, including the protection of the right to life, the protection of personal liberty, the protection of the law, protection from inhuman treatment, protection from slavery and forced labour, protection from arbitrary search and entry, protection of freedom of movement, protection of freedom of conscience, protection of freedom of expression, protection of freedom of assembly and association, protection of the right of privacy, protection of the right of work, protection from discrimination on the ground of race, sex, place or origin, political opinions, colour or creed, protection from deprivation of property, provisions for periods of public emergency, and protection of persons detained under emergency laws.

similar to the body of fundamental rights protected by the ICCPR. These rights and freedoms encompass the protection from inhuman treatment, protection from slavery and forced labour, protection from arbitrary search or entry, protection of freedom of movement, protection of right to work, protection from discrimination on the grounds of race, sex, place origin, political opinions, colour or creed, and protection from deprivation of property.

8. The rights and freedoms are guaranteed to all persons in Belize, including the indigenous community – discrimination on the grounds of race is prohibited by the Constitution. As any other persons in Belize, the right of indigenous communities over land is protected and respected, and is subject only to the rights and freedoms of others and for the public interest. This issue has been the subject of judicial scrutiny, where the Caribbean Court of Justice (CCJ) concluded that the Consent Order of April 22, 2015 between the Government of Belize (GoB) and the Maya indigenous community confirms that Maya customary land tenure rights fall within the ambit of the Constitution of Belize and are protected by the Constitution²; but cautioned that “the Consent Order clearly recognizes in paragraph 5, the constitutional authority of the Government of Belize over all lands in Belize [and that] is not affected by that order and, we would add, by this award”.³

Article 2

9. The framers of the 1981 Constitution included the principle of the inherent equality of all persons. The Preamble states that the people require policies of state that eliminate economic and social privilege and disparity among the citizens of Belize whether by race, ethnicity, colour, creed, disability or sex and that ensure gender equality. Section 16 (1) and (2) fortifies this principle. It provides that no law shall make any provisions discriminatory either of itself or in its effect, and no person shall be treated in a discriminatory manner by any person or authority. Section 16 (3) defines “discriminatory” as affording different treatment to different persons attributable wholly or mainly to their respective descriptions by sex, race, place of origin, political opinions, colour or creed. The GoB is still committed to upholding this principle. In his 2013 Independence Day Speech, Prime Minister (PM) Barrow affirmed that “all persons are equal before the law and are entitled without any discrimination to the equal protection of the law...[and] what Government cannot do is to shirk its duty to ensure that all citizens, without exception, enjoy the full protection of the law.”

10. By their professional training and formation, judges, lawyers and law enforcement personnel swear to uphold the Constitution and to protect and enforce the constitutional rights and freedoms of persons in Belize. By extension, they also protect and enforce the fundamental rights and freedoms enshrined in the Covenant.

11. The ground breaking case of *Wade v Roches* Civil Appeal No. 5 of 2004 is an impeccable example of the judges protecting and enforcing the fundamentals rights and freedoms enshrined in the Constitution. In this case, the Respondent, who was unmarried, was employed as a teacher at a Roman Catholic school. She became pregnant and, as a result, she was dismissed by the Appellant for failing to comply with the terms of the contract, to live according to Jesus’ teaching on marriage and sex. The Chief Education Officer ordered the Appellant to reinstate the Respondent; however, they refused to do so. Consequently, the Respondent instituted an action in the Supreme Court (SC) in which she claimed inter alia, a declaration that her dismissal from her job as a teacher on the ground that she had become pregnant while unmarried was in violation of Section 16(2) of the Constitution and infringed her constitutional right not to be discriminated against as a result of her sex. In addition, the Respondent also sought an order for damages for breach of that constitutional right. The Court of Appeal (CoA) affirmed the SC’s judgment that the dismissal of the Respondent violated her right under Section 16(2). Mottley, P. opined.

² CCJ Appeal No BZCV2014/002

³ *Ibid.*, paragraph 78

“... Having found that she was released/dismissed, because of her pregnancy. This was conduct which in my view amounted to discrimination on the Respondent, that her constitutional right not to be treated in a discriminatory manner was infringed.”

12. Recently, some members of the Lesbian, Gay, Bisexual and Transgender Community (LGBT) relied on these Constitutional provisions and tasked the SC with determining the constitutionality of Code 53 of the Criminal Code CAP. 101 of the Laws of Belize R.E. 2011 (“The Criminal Code”). By way of Supreme Court Claim No. 668 of 2010, the claimants, Caleb Orozco and the United Advocacy Group v the Attorney General Office sought a Declaration that Code 53 unconstitutional in that it violated several fundamental rights including the non-discrimination provisions. Section 53 states that “every person who has carnal intercourse against the order of nature with any person or animal shall be liable to imprisonment for ten years.” The Court in its judgement stated that Section 16 of the Constitution confers protection against discriminatory laws and discriminatory treatment by a person or authority. Court held, inter alia, that the Claimant has been discriminated against on the basis of his sexual orientation by virtue of Section 16(1) and (3) and there is an ongoing violation of his right under section 6(1) to equality before the law and the equal protection of the law without discrimination.

13. In addition to the aforementioned case, in the CCJ Case OA 001 of 2013, Maurice Arnold Tomlinson v The State of Belize, the claimant challenged Section 5(1) (e) of the Immigration Act, CAP 156 of the Laws of Belize, arguing that it restrains him from visiting Belize because he is a homosexual and the law designates homosexuals as prohibited persons. He argues that he is prejudiced not only in the enjoyment of his Community rights of free movement but also in his right not to be discriminated against on the ground of nationality only. He therefore sought, inter alia, a declaration that the provisions of the Immigration Act prevent his lawful entry into Belize in violation of his right to freedom of movement and his right not to be discriminated against on the basis of his nationality only. Court however, the court ruled against the applicant stating that state practice in Belize in relation to the law challenged does not suggest any incompatibility with the Revised Treaty of Chaguarams (RTC) or the 2007 Conference Decision and that the practice or policy of admitting homosexual nationals from other CARICOM States (not falling under the two exceptions mentioned in the 2007 Conference Decision) is not a matter of discretion but is legally required based on Article 9 of the RTC as this is an appropriate measure within the meaning of that provision.

14. Judges, lawyers, and other legal officers swear to uphold the Constitution and to protect and enforce the constitutional rights and freedoms of persons in Belize.

15. The preparations for this Report entailed significant consultations with persons from the legal profession, and this provided an opportunity for wide dissemination of the provisions of the Covenant. Also, in the preparation of national reports, including human rights reports, it is mandatory to hold public consultations with all relevant stakeholders, and for the final reports to be posted on the lead governmental agency’s website. Additionally, as a matter of practice, lead Ministries convene public meetings with stakeholders to keep all informed of the status of the reporting process, as well as of the position of GoB there on.

16. The Laws of Belize are silent regarding polygamy. Code 58 of the Criminal Code creates the offence of marriage by force or duress and Section 74 of the Marriage Act, CAP 174 of the Laws of Belize, R.E. 2011 prohibits any proceedings to compel marriage.⁴ Also, Section 2 of the Trafficking in Persons (Prohibition) Act, No. 2 of 2013 defines exploitation to include “subjecting a person to practices similar to slavery”, and this latter is defined to include “forced servile marriages”.⁵

17. The Criminal Code was amended in 2014 to reform the law in relation to sexual offences against children, abduction, kidnapping, procurement, incest, inducement to

⁴ The Marriage Act, CAP 174 of the Laws of Belize, RE 2011, §74

⁵ Criminal Code, CAP 101 of the Laws of Belize, RE 2011, §58

abandon criminal proceedings and perverting the court of justice. One of the principal amendments was the new definition of rape as being the penetration of a person's mouth, vagina, or anus, with a penis, without the person's consent Code 72 of the Criminal Code creates the offence of marital rape but lists instances when it will be so classified.⁶

18. The Domestic Violence Act, CAP 178 of the Laws of Belize, R.E. 2011 (DVA) was passed in response to the alarming increase in domestic violence cases and sought to ensure prompt and equitable legal remedies for survivors of domestic violence. Within the legal framework of the DVA, much progress has been made towards reducing violence against women. For example, the Act expands the definition of abuse to include financial abuse, provides for longer protection orders, and, for harsher penalties for breach of such orders. The DVA now includes persons in visiting relations as persons against whom orders may be issued. The DVA also provides for persons to apply for an Interim Order if the situation requires immediate attention and which may be granted without the respondent's presence in Court. Additionally, the Court can mandate perpetrators to relinquish firearms which have been utilized in domestic violence acts and provide maintenance for children should no maintenance order be in place.

19. The national response to gender-based violence is spearheaded by the Ministry of Human Development, Social Transformation, and Poverty Alleviation (Min of Human Development) through the NWC which chairs the National Gender-based Violence Committee (NGBVC) and is also its new Secretariat. The NGBVC is a multi-sectorial committee which includes, among other representatives, the Ministries of Health, Education, Human Development, Magistrate and Family Court, Domestic Violence Unit, and NGOs.⁷

20. The Women's Department (WD) has the principal role of coordinating the implementation of the National Gender-Based Violence Plan of Action (NGBVPA) 2016-2020, the new plan of action builds on the previous plan 2013. The NGBVPA was designed to serve as a basis for advocacy work to end gender-based violence in all its forms as well as a tool to assist policy and decision makers to contribute to the achievement of the national and international goals. In 2012, the UN Trust to End Violence against Women supported the implementation of most activities of the Action Plan for the 2012-2015 period.⁸

21. The Family Violence Unit (FVU) within the BPD in Belize City and the Officers assigned to the Unit in the districts collaborate with the WD to implement activities against gender violence and to conduct sensitization sessions with community members. The FVU works to raise awareness on the issues of domestic violence with a focus on the role of the police officer in the reporting, investigation and prosecution of cases of domestic violence and the enforcement of the Domestic Violence Act of 2007. In 2011 the Domestic Violence Protocol for Police Officers was revised to include a Complaints Mechanism linked to the Office of the Ombudsman (Omb) to investigate inadequate police response. Additionally, a multi-sectorial Sexual Violence Protocol was developed in 2011 with the purpose of facilitating collaboration amongst the Ministries of Human Development, through its

⁶ Criminal Code, *Ibid.*, §71, §72

⁷ The National Women's Commission is the new secretariat of the National Gender Based Violence Committee (NGBVC). The NGBVC is a technical, multi-sectoral, results-oriented Committee which coordinates the development and implementation of strategies to prevent GBV and provide victim assistance and support based on the National Gender-Based Violence Plan of Action with oversight from the Secretariat. There are six District Committees established all over the country that feed into the national committee. All Committees are comprised of organizations such as Ministries of Health, Education, Human Development, Magistrate and Family Court, Domestic Violence Unit, and NGOs. The National Gender-Based Violence Plan of Action 2017-2020 was passed by Cabinet on January 10, 2017 and officially launched and socialized on July 6, 2017.

⁸ Among the activities being implemented are: ensure that all officers have basic training in the new Domestic Violence Act; conduct of a public awareness campaign promulgating the Ombudsman Office for complaints by victims of gender based violence; and the development of a comprehensive internal plan for improving response to gender based violence in the Police Department, among many others.

Women's Department, National Security, Health, and the Ombudsman's Office to provide protection, treatment and support for survivors of sexual violence so as to reduce their trauma and facilitate recuperation. A handbook to provide information for the general public was also developed in 2012 to provide information on sexual violence.

22. While the GoB has no facilities for housing victims of domestic violence it partners with the three NGOs which provide these services. The WD makes referral to these facilities and the WD provides the basic needs of such persons for the duration of time spent at the shelter. The largest facility, Golden Haven receives an annual subvention of BZD 25,000 from the GoB.⁹

23. To further strengthen the legal and institutional framework for reducing gender based violence, a National Surveillance System was established in 2000 which serves as the data collection mechanism for capturing gender based violence. The Ministry of Health (MoH) hosts the compilation and production of statistical reports shared annually with stakeholders. There has been a continuous decline in the total number of gender based violence complaints during the period 2008-2014 as evidenced in Figure I. In 2008 the total complaints registered was 1,666 while in 2014 it declined to 817.¹⁰

24. In 2011, through a consultative process and funding from Pan American Health Organization (PAHO), the system was evaluated and recommendations were provided in an effort to strengthen its overall impact and objectives.

25. In 2007 the CEDAW Committee recommended that Belize raised women's political representation at the highest decision-making levels of government. In pursuit of this objective, the NWC launched the Women in Politics Project (WIP) in 2009. After three successful cohorts in 2012, 98 women have been socialized and trained to stand for elections at the village council, municipal and national levels.¹¹

26. At the General Elections held on 4 November 2015, the two principal political parties fielded three female candidates each. Two female candidates of the incumbent party were successful at the polls and were appointed Ministers of State. A female from outside the National Assembly was appointed to the post of Attorney General, who is the constitutional principal legal adviser of Government. Of the twenty Chief Executive Officers, eight are female and four of the twelve (12) Senators are females.¹²

As a safety precaution, victims are sent to shelters outside their immediate residence. Haven House is currently the only safe house for female survivors of domestic violence and their children in the Belize District. It was established as an NGO in 1993 and it provides temporary housing for up to 21 days, counselling, and legal advocacy for residents. For the period 1993-2011 Haven House reported an occupancy rate of an average of 16 adults and 39 children. Mary Open Doors is a shelter located in the Cayo District which provides basic counselling, skills training and job placement for clients. It was opened in 2008. For the period 2008-2013 the average number adults was 16 while the average number of children housed at the shelter was 29. The House of Dorcas located in the Corozal District is also a relatively small shelter which began operations in 2013 and which works closely with the WD to provide similar services to victims of domestic violence. For the period 2013-2015 the House of Dorcas housed on average 3 adults and 6 children at the shelter.

¹⁰ Studies in other countries show that the percentage of gender base violence that get reported represents 15% of the total cases that have occurred in a given year.

¹¹ In 2009, following on the heels of the programme, five women stood for Village Council Elections, of whom one was elected as Chairperson and two as councillors. In March 2015, the only woman who ran and successfully won her mayoral seat was a graduate of WIP. Of the three deputy mayors appointed, one was also a WIP graduate. There is one female mayor and three female deputies of the 58 councillors and 9 mayors.

¹² One is Minister of State in the Ministry of Economic Development, Petroleum, Investment, Trade and Commerce, and the other is Minister of State in Natural Resources and Immigration. At the National level, the 2012 National Elections saw the election of one woman to the 31 member House of Representatives. The Prime Minister however, appointed two women Senators and brought them into the Cabinet as Senators with full ministerial rankings. The Cabinet has 15 men and two women. The appointment of the two women senators is a direct response to the advocacy of the NWC by way of WIP to raise women's representation. It also a part of the government's manifesto promise to appoint more women to decision-making positions in government.

Article 4

27. Section 18 of the Constitution specifies that a period of public emergency can be declared when Belize is at war, or when the Governor General (GG) declares a state of public emergency, or that there is a resolution by the National Assembly (NA) declaring that democratic institutions are threatened by subversion. Section 18(10) lists the constitutional rights that cannot be derogated from during a public emergency. Section 19 furthermore addresses the protection of persons detained under emergency laws, limits the extent of the derogation from the right to liberty during a public emergency, and requires a review of the detention at intervals not exceeding three months by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice (CJ) from among persons who are legal practitioners.¹³

28. In accordance with international standards, Belize has made every effort to balance the need to combat terrorism against the rights guaranteed by the Covenant. As noted by the Mutual Evaluation Report 2011 of the Caribbean Financial Action Task Force (FATF), Belize has in place adequate provisions for the protection of the rights of bona fide third parties in its anti-terrorism legislation. Section 65 of the Money Laundering and Terrorism (Prevention) Act, 2014 (MLTPA) shields the rights of bona fide third parties who may become adversely affected by the grant of an order under Part IV of the Act. In addition, section 65(4) lists the factors which the SC considers before returning property, proceeds or instrumentalities to a bona fide third party. Section 65(2) of the MLTPA further provides that a third party's lack of good faith may be inferred from the objective circumstances of the case. Moreover, where an order is granted ex parte under Sections 39 (restraining order) and 49 (forfeiture order) a bona fide third party may apply to revoke or vary the order under section 47(4) of the MLTPA. A bona fide third party may pursuant to Section 52 of the MLTPA apply to claim an interest in any property forfeited under section 49 of the Act.¹⁴

29. Section 68(9) – (11) of the MLTPA provides that a person listed by Belize as a suspected terrorist may appeal that listing to the SC, which may set aside the listing. In such a case, the law requires the Minister to publicise the Court's decision clearing the person's name.¹⁵

30. Section 2 of the MLTPA, defines "terrorism" or "terrorist act" to include acts or omissions, whether committed in or outside Belize. To date, no terrorism-related cases have arisen in Belize.

Article 6

31. Section 4(1) of the Constitution guarantees the right to life. No cases of extrajudicial killings have ever been recorded in Belize. No cases of forced disappearances have been reported in Belize. This notwithstanding, crime investigation detectives are adequately trained to investigate such cases should the need arise.¹⁶

32. Missing persons reports are addressed by the FVU located within each Police Department across the six districts. The Missing Persons Policy of the Belize Police Department (BPD) makes it clear that missing person reports, especially those involving children, are to be immediately and adequately responded to, since no other criminal investigation is as time sensitive. The Policy outlines each step of the process for investigating reports of missing persons. The BPD obtains a physical description of the person, including recent photographs and the senior officer on duty is immediately notified and immediate search arrangements are effected. The missing person description and clothing worn is broadcasted by the police control room to all patrolling officers. The media is also promptly informed of the missing person with full description and photograph, if

¹³ The Constitution, *Op. Cit.*, §18-§19.

¹⁴ Money Laundering and Terrorism (Prevention) Act, April, 2014, §39, §47, §49, §52, §65.

¹⁵ Money Laundering, *Ibid.*, §68, §2.

¹⁶ The Constitution, *Op. Cit.*, §4.

available. Telecommunication companies in Belize also help by releasing mass SMS to their customers alerting them of the missing person. If the person is not found within 24 hours, a Missing Persons Poster is prepared by the Joint Investigating Crime Control Unit. Officers stationed at the ports of entry are also informed of any missing person. Belize also cooperates with international partners in their investigations into missing persons who are nationals of such countries.

33. In 2012 a total of 175 persons were reported missing; in 2013 and 2014 the number of missing persons was 149. Figure II shows the number of missing persons by sex and age. The BPD does not keep a record of persons found.

34. The use of force by law enforcement officials is governed by the Justifiable Force and Harm provisions, Codes 30-43 of the Criminal Code, Justifiable Force and Harm cover all forms of force, including those involving firearms.¹⁷ The use of force or harm may be justified, inter alia, to execute a lawful sentence or order of a court, to arrest and detain a person who has committed a felony, and to defend a person against a crime or to prevent the commission of a crime. Rules 38 and 39 of the Prison Rules govern the use of force by prison authorities, and provides that “no officer shall use force unnecessarily, and when the application of force to a prisoner is necessary, no more force than is necessary shall be used.”¹⁸

35. With the expansion of the BPD starting in 2014 there is no longer a need to rely on the armed force to assist with street patrols. Patrolling police officers do not normally bear arms but with the increase in violent crimes and criminal gang activity in certain areas of the country, they now carry firearms.

36. The BPD provides training on the rules and regulations governing the use of force and firearms and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. This training is provided at different intervals. In addition, patrolling officers are all given a “white card” which clearly specifies the conditions for use of lethal force, and serves as a guide to the officer in his/her gradual increase of force. In their trainings, Police Officers are continually reminded that engagement with firearms is a last resort.

37. Where an officer is involved in the death of a civilian through excessive use of force, the BPD regulations require that a report is immediately submitted to the Commissioner of Police, (CP) who directs the Professional Standards Branch (PSB) to initiate an investigation. If the investigation proves the use of unwarranted force the officer is immediately subjected to criminal prosecution.

38. During 2012-2014, there were at least four (4) cases of persons who died whilst in police custody and in which police officers were arrested and charged with murder resulting from the excessive use of firearms. These cases are presently before the courts.

39. The BPD has increased and extended its sensitization to officers on the use of force. On 26 January 2016 the BPD and the Omb signed a Memorandum of Understanding (MoU) with the objective of strengthening cooperation between the two offices in the areas of protection and promotion of human rights and on the principles of rule of law, mutual equality and reciprocity. It is expected that this will facilitate the inquiry and investigations of complaints related to the BPD by the Omb.

40. The death penalty is still present in the laws of Belize. Code 10 of the Criminal Code creates the offence of murder, which is punishable by death. Murder is classified into Class A and Class B. The penalty of death is the sentence imposed by Code 106 of the Criminal Code, for Class a Murder. The SC may reduce the sentence to life imprisonment after taking into account special extenuating circumstances of the jury’s recommendation or plea for mercy. Once convicted and sentenced, the convicted person can appeal the

¹⁷ Criminal Code, *Op. Cit.*, §30.

¹⁸ Subsidiary Law to the Prisons Act, S139 of the Laws of Belize, RE 2011, §38, §39.

conviction and/or sentence to the CoA. If unsuccessful, an appeal can be made to the CCJ.¹⁹

41. In practice, the death sentence hasn't been applied since 1985 and the last execution was made in 1986. In August 2015 the last person was removed from death row as he was there in excess of 5 years. These changes have resulted from two principal events: (1) Pratt and Morgan v the Attorney General of Jamaica, Appeal No 10 of 1993 - The Privy Council, which was Belize's final appellate court at the time, decided that to execute a person who has been on death row for five or more years constituted cruel and inhumane punishment; and (2) Reyes v the Queen - in 2002, the Privy Council ruled that to deny a sentencing discretion to a Judge in respect of a Class A murders is unconstitutional.²⁰ Thus, until 2002, the death penalty was automatic for Class A murders; for Class B murders, the judge had discretion to impose a life sentence instead of the death penalty. However, since the ruling in Reyes v. the Queen, judges have the discretion to impose a life sentence instead of the death penalty for both Class A and Class B murders.²¹

42. In the recent and landmark case of Gregory August v R Criminal Appeal No 22 of 2012, the CoA held that life in prison sentence for murder is unconstitutional. The Court was of the view that the mandatory minimum sentence of life imprisonment without the possibility of parole constituted cruel and degrading punishment, and as such, is in violation of Section 7 of the Constitution.

43. The sentence of a pregnant woman who has committed a crime which is punishable with the death penalty must be commuted to life imprisonment, per Section 147 of the Indictable Procedure Act, Code 112 of the Criminal Code provides for abortion in special conditions, such as to save the life of a woman, to preserve physical and mental health of the pregnant woman, or in cases of substantial fetal impairment.²²

44. In 2014 the birth cohort was reported as 7, 244 live births. Regarding the Millennium Development Goal 4 (MDG) of reducing child mortality, there has been significant improvement in reducing the Under-five child mortality rate, which declined by 63% from 39.6% to 14.6% of deaths per 1,000 live births during 1990-2014. The infant mortality rate has declined by more than half, with 62% from 32.1% to 12.3% deaths per 1,000 live births for the same period. Figure III shows live births by the age groups 10-24 for the period 2008-2014.

45. There have also been major improvements in MDG 5 of improving maternal health. The maternal mortality ratio (MMR) reduced from 75 to 55 maternal deaths per 100,000 live births during 1990-2014, with zero maternal deaths in 2011 and 2013, 3 in 2014 and 8 in 2015. Other maternal health indicators linked to MDG 5 show some positive improvements, such as an increase in skilled birth attendance rate, a decrease in adolescent birth rate, an increase in the contraceptive use /prevalence rate among women married / in union, and in antenatal care coverage, with further details reflected in Table II.

46. The Sexual and Reproductive Health Policy (SRHP) approved in 2002 is a multi-sectoral policy aimed at addressing gaps in sexual and reproductive health rights and services. In terms of advancing the implementation of the SRHP, the MoH has re-introduced access to contraceptive methods (Intrauterine Device, condom male and female, oral and injectable contraceptive) targeting approximately 6,000 women in reproductive age (10% of total women in reproductive age).

47. There have been positive results from the implementation of the SRHP, such as the expansion of Sexual and Reproductive Health (SRH) services provided through the MoH and the National Health Insurance (NHI) Programme. Public Health Clinics offer contraceptives at no cost [out of pocket payment] especially to women infected with HIV, women with reproductive risk factor, and women with history of high risk pregnancies. There is now increased access to cervical cancer screening services, such as pap-smears,

¹⁹ Criminal Code, *Op. Cit.*, §106.

²⁰ [2002] AC 235.

²¹ [1994] 2 AC 1.

²² Criminal Code, *Op. Cit.*, §112, §127.

and Visual Inspection with Acetic Acid (VIA) introduced by Belize Family Life Association (BFLA) in 2014. The national cervical cancer prevention and control committee has updated the clinical guidelines, the strategic plan and is promoting the see and treat clinics providing VIA, cryotherapy and loop electro excision procedure, aiming for early detection and treatment. The GoB invested in procurement of medical equipment, training of health care workers. The number of pap-smears increased from 2,000 a year to more than 15,000 in 2015. Other services include post-natal care, integrated Sexually Transmitted Infection (STI), including HIV screening, care and treatment and support services. The MoH along with partners has introduced the Human Papilloma Virus (HPV) vaccine to reduce the incidence of up to 70% HPV cancer causing types [16 and 18] and 90% genital warts [6 and 11] when administered to girls not exposed to the virus. HIV screening, care and treatment is at no cost to screened population and those infected with HIV.

48. BFLA, a Non-Governmental Organization (NGO), since 1985 focuses exclusively on providing sexual and reproductive health and advocating, promoting and protecting the sexual and reproductive rights. Through its network of six clinics BFLA provides general health services in addition to gynaecological care, Pap tests, breast examination, pregnancy tests, abortion services, pre- and post-natal services, child immunization, health education and STI and HIV testing. The BFLA receives an annual subvention of BZD 10,000 from the GoB.

49. In 2009 the BFLA introduced abortion services consistent with the provision of Code 112 of the Criminal Code. As required by Code 112 where two obstetricians certify that a continued pregnancy is a danger to a woman's life, or there is fetal impairment, the BFLA may provide abortion service, provided the pregnancy is less than 12 weeks. For the period 2009-2014 the BFLA provided a total of 95 abortion services.²³

50. Belize has come a long way in halting the spread of the Human Immunodeficiency Virus (HIV) reflected in the significant decline of new HIV cases over the last five years. In 2013 the estimated prevalence rate was 1.4%, a decrease of 40% from the previous estimate of 2.4%. This decline is directly attributable to the concerted programmes and services provided by the MoH and its social partners. For example, the GoB continues to successfully implement the Prevention of Mother to Child Transmission element of the Programme which seeks to further reduce the risk of HIV infected pregnant mothers passing the virus to their new borns. In 2014 approximately 92% of women who were pregnant underwent screening for HIV and 49 of the 51 HIV positive women received Anti-Retroviral Treatment (ART). HIV infection occurring in late pregnancy has led to postnatal maternal and child infections.²⁴

51. For the year 2014, there were zero cases of vertical transmission highlighting the success of this initiative. Data up to 2014 continue to record increases in the total number of HIV tests conducted countrywide with an increase of 5.4% testing over 2013. GoB continues to provide universal access to ARVT to persons with HIV in line with its global commitment and in 2015 there were initial moves toward placing all positive persons on treatment. At the end of 2015, more than 1,400 persons were receiving ARVT, subsidized by GoB.

52. In relation to the number of new HIV infections recorded per annum, after the 425 new cases of HIV infections in 2008, there were further declines during 2008-2014, except for 2012 when there was a small increase of 10% over 2011. In 2014 there were a total of 221 new cases of HIV infection, representing a decrease of 9.5% over 2013. 2014 was also the year with the lowest number of new cases for the period 2008-2014 (see Figure IV).

53. Notwithstanding this progress, there remain challenges in increasing the uptake of health services by the male population which is extremely important in light of the

²³ BLFA does not have the facilities to provide abortion services for a pregnancy exceeding 12 weeks; such cases are referred to the public health services.

²⁴ There were no cases of vertical transmission in babies born in 2014 and this was the first year Belize reported zero case. TB, HIV/AIDS & Other STIs Programme Report, 2014.

persistent high rate of HIV infection and the higher mortality rate in the men having sex with other men population.

Article 7

54. Belize is a Party to the Convention against Torture, and other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT). Belize has not expressly incorporated the provisions of the CAT, particularly the definition of torture, into domestic law.²⁵

55. While legislation may not have defined “torture” *per se*, Section 7 of the Constitution establishes that “no person shall be subjected to torture or to inhuman or degrading punishment or other treatment” and provides remedies for violations thereof, which includes access to the SC.

56. The term “torture” appears twice in the Criminal Code, to prohibit and criminalize torture to prisoners by prison Officials, and to criminalize torture to animals. Any other treatment which may constitute torture, inhuman or degrading punishment, is regulated by Codes 79 to 95 of the Criminal Code, entitled “Criminal Harm to the Person”. Penalties for harm to a person range from one year to life imprisonment, depending on the degree of harm inflicted. In cases where a victim alleges torture, the charge will range from assault to murder, depending on the medical classification of the injuries.

57. As part of the Police training curriculum, several hours are spent on the topics of human rights and the care and treatment of prisoners in police custody. Section 24 (1) (u) of the Police Act prohibits the use of unwarrantable personal violence or ill treatment of any person in police custody. Disciplinary penalties for any such violations range from caution to dismissal, and are without prejudice to the criminal charges that can be proffered, depending on the injuries the victim suffered.²⁶

58. Aggrieved persons or families of the victim can make complaints to the local Police Commanders, the Professional Standards Branch (PSB), or the Omb where statements are recorded and investigated. Complaints can be brought directly to the Omb in writing or in person, or through a telephone call. Depending on the severity of the allegation and outcome of the investigating officers can be charged disciplinarily and/or criminally. In addition, Section 20 of the Constitution provides for judicial as well as civil redress.

59. The Omb is staffed by the Ombudsman, a legal officer, an investigating officer, and three administrative officers. The current Ombudsman has repeatedly referenced the limited resources of its Office and limited cooperation of authorities as a restriction to the successful discharge of its mandate. According to the Annual Reports of the Omb for the period 2012-2014, most of the complaints received were against the Ministry of National Security (MNS), in particular, the BPD. For 2012 the total number of formal complaints received was 97, of which 54 were about the BPD with 18 directly related to the excessive use of force. In 2013 of the total 211 complaints, 99 were against the BPD, with 33 related to excessive use of force. In 2014 a total of 220 complaints were made of which the BPD received 116 complaints, with 34 related to unwarranted violence. In 2015, they were a total of 217 complaints of which 91 were against the BPD and of which 18 were related to excessive use of force. This significant decline of complaints in 2015 was directly attributed to the BPD efforts to deter torture and ill-treatment.²⁷

²⁵ By accession, March 17, 1986.

²⁶ Police Act, CAP 138 of the Laws of Belize, RE 2011, §24.

²⁷ The Fourteenth Annual Report of The Ombudsman, Belize, p. 9. The Thirteenth Annual Report of the Ombudsman of Belize, 2013, p. 10. The Twelfth Annual Report of the Ombudsman of Belize, 2012, p. 27-28.

See <http://www.7newsbelize.com/sstory.php> Channel Seven News, Belize. “Gaza’s Christmas Come Up Paid”, 20 December 2013.

See <http://www.7newsbelize.com/sstory.php> Channel Seven News, Belize. “PM: Buckley Should be Compensated,” 2 August 2013.

60. The PSB of the BPD is governed by Section 4 of the Police Act; the principal mandate of the PSB is to investigate complaints against police officers made by the general citizenry. The PSB's main office is located in Belmopan and there are five officers in charge of duty and discipline. There are plans to increase the staffing at the main office to 10 persons. The Commanding Officer (CO) in each police station attends to complaints against the BPD however, when complaints are about the CO, the investigation is done by the PSB. All investigations done by COs are reviewed by the PSB in Belmopan for any further necessary action or guidance.

61. In 2012, 241 complaints were made to the PSB, and of these, 181 were resolved, 57 were classified as unsubstantiated reports, and 8 were awaiting trial. In 2013 the total number of complaints decreased to 158, of which 98 were resolved, 57 were classified as unsubstantiated and 3 were awaiting trial. In 2014 there was a further decline in the number of complaints to the PSB - of a total of 138 complaints, 85 were resolved, 39 were classified as unsubstantiated reports, and 14 were awaiting trial.

62. Serious offences such as allegations of murder, extortion and theft are investigated by the main office in Belmopan. Where complainants pursue legal action against the BDP through the Civil Courts, the Attorney General's Ministry represents the BPD in court. All complaints by the general citizenry against the BPD are investigated although at times, and at the request of the complainant, no disciplinary action is taken against the officer, even when the complaint is substantiated. There have been several out of court settlements, in which GoB has paid over BZD 100,000 in compensation to victims. In these cases the GoB assumes liability for the action of these officers and there have been discussions about the possibility of shared liability with enforcement officers.

63. In terms of excessive use of force, the data from the PSB in 2012 showed 241 total complaints, of which 97 were related to excessive use of force. In 2013 of the total 167 complaints 49 were related to excessive use of force. In 2014 of the total 150 complaints 39 were related to excessive use of force. In 2015 of the total 118 complaints 53 were related to excessive use of force. Section 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 wrong doing; 24(2)(h) provides for compensation to the victim. Section 25 of the Police Act provides for an appeal to the BAC for police officers where the sentence is dismissal, reduction in rank or grade. The Belize Advisory Council (BAC) can affirm, set aside the decision, or may make any other decision.²⁸

64. Rules 151-154 of the Prison Rules govern the treatment of prisoners who were sentenced to death. These include inter alia, being confined in day and night in the constant charge of a prison officer, and not subjected to the rules related to working in the prison. On October 15, 2015 the CA commuted the death sentence of Glenford Baptist, the last person on death row. Baptist had been imprisoned since 2001.

65. There is little public information and awareness made available to the public regarding prohibition of torture and ill-treatment. However, in initial police training several hours are dedicated to the presentations introduced by the Human Rights Commission of Belize (HRCB). These presentations cover all aspects of human rights, including torture and ill-treatment. Through the relationship with HRCB and the BPD, work is currently underway to train police personnel as human rights instructors. Other measures taken to deter torture and ill treatment included the installation of cameras in all police stations, improved supervision of officers and investigation into complaints of alleged use of excessive force, along with the application of the full force of the law where complaints are substantiated.

Article 8

66. There are three inter-related pieces of legislation which together seeks to combat trafficking and all forms of servitude in Belize. These are: 1) the Trafficking in Persons

²⁸ Police Act, *Op. Cit.*, §25.

Prohibition Act – 2013 (TIPs), 2) the Commercial Sexual Exploitation of Children Act - 2013 (CSEC) and 3) the Labour Act, CAP 297 of the Laws of Belize, R.E. 2011 (“The Labour Act”). Section 8 of the Constitution also protects persons against slavery and servitude, as well as forced labour.²⁹

67. The Anti-Trafficking in Persons Council (ATIP) is a multi-agency council chaired by the Ministry of Human Development. The ATIP Council leads GoB’s efforts to combat human trafficking in all its forms and in line with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children 2000 (UN TIP Protocol/Palermo Protocol).

68. The Council is comprised of a cross sector of relevant government ministries and departments such as the Ministry of Foreign Affairs, Immigration Department, BPD, the National Committee for Families and Children (NCFC), and the National Organization for the Prevention of Child Abuse and Neglect (NOPCAN). To execute its mandate the ATIP Council is divided into three sub-committees: the Operations committee, the Information, Education and Communication (IEC) committee and the Monitoring and Evaluation (M&E) committee. There is an ATIP Focal Point who works full-time to coordinate the various activities of the Council and its three sub-committees.

69. The Office of the DPP has the mandate to prosecute alleged traffickers. In 2012 there were two trafficking cases, and one case is still awaiting trial at the SC, and in the other, the defendant was found guilty in absence and remains a wanted person by Belizean authorities. In 2014 one person was charged for human trafficking and in February 2016, she was found guilty and fined but was spared a custodial sentence. In 2015 there were 5 cases of alleged human trafficking under investigation for which the directive for arrest of one had already been issued. Given the serious nature of this crime many of these cases are prosecuted personally by the DPP.

70. The TIPs covers, inter alia, prosecutable offenses such as keeping a person in a state of slavery, and compelling or causing a person to provide forced labour or services. The TIPs prescribes penalties for these offenses, which range from 8 to 12 years. Section 4 of this Act provides for extra territoriality application and prosecution of offences.³⁰

71. The CSEC and the Criminal Code Amendments on sexual abuse and assault reinforce and strengthen the TIPs. These two pieces of legislation are used when all the criteria set out in TIPs cannot be proven in a case; additionally, they may be utilized to bring additional charges in a TIPs case.

72. In addition, the Labour Act provides for the "Prohibition of Forced Labour" through Sections 157-159. Sections 65-78 of the Labour Act regulate recruitment, including licensing requirements of recruiters, recruitment of children 16 years or older, and recruitment by misrepresentation. Section 77 provides for penalties if an employer violates any of the provisions in the aforementioned Sections, which includes on conviction a maximum fine of \$500, imprisonment for 12 months, or both.³¹

73. Parts V, VI and VII of the Labour Act speaks to general, oral and written contracts of service and makes it an offense for any adjustments to be made to a worker's contract without consent or without attestation from the Labour Office. Section 96 of the Labour Act, which concerns payment of wages, stipulates that payment should be made in legal tender and in full when due on work days. Also, TIPS offers improved coverage especially as it relates to the issue of fraudulent offers for work.³²

74. The Prisons Act, CAP 139 of the Laws of Belize, R.E. 2011, Section 13 (1), abolishes penal servitude. Rule 66 of the Prison Rules provides for convicted prisoners to work and to receive payment for work. In addition, Rule 69 provides for the highest prison authority to approve a prisoner to work in the service of another prisoner or in an office of a

²⁹ The Constitution, *Op. Cit.*, §8

³⁰ Trafficking in Persons (Prohibition) Act, 2013, §4, §11, §24, §29.

³¹ Labour Act, CAP 297 of the Laws of Belize, RE 2011, §76-§77.

³² Labour Act, *Ibid.*, §96.

government department. The Minister's permission is required for a prisoner to work for the private benefit of any person.³³

75. Section 29 of TIPS lists the guidelines in the investigation and prosecution of offences relating to trafficking in persons. The Ministry of Human Development, through its Department of Human Services (DHS) provides shelter and basic needs to victims of trafficking for the duration of the criminal proceedings and as part of re-integration plans. The basic needs of victims are assessed and addressed by the Department on a case-by-case basis, where care planning is conducted taking into account the strengths and needs of the particular individual. Victims have access to free medical and counselling services as identified in the case planning process. Both foreign and domestic victims have access to the same services. Foreign victims have the additional service of ensuring that their immigration status is regularized and that they remain in good standing.

76. Children are provided protection and care within the existing child protection system that provides substitute care placements for abused and neglected children. GOB has three shelters dedicated exclusively to trafficking victims and their families - one in Cayo District and two in the Belize District. During the period April 2013 to March 2014, the Victim Care Unit provided protective and support services to a total of 30 minors, 28 of which are unaccompanied foreigners and 2 of which are Belizeans. Of these, three (3) were identified as human trafficking victims. During the same period the GoB spent over BZD 275,000 on the response to Trafficking in Persons. Under the TIPS, victims who have obtained temporary residency in Belize receive special consideration in applications for permanent residency.

77. The Ministry of Human Development assists and supports victims in becoming economically independent through training and other entrepreneurship endeavours. The Ministry also liaises with the Immigration Department to facilitate work permits where necessary. Through direct services, social workers develop relationships with victims in order to establish a level of trust and support. Victims are educated on their legal options and are supported in whatever decision they make as it relates to cases.

78. Victim safety is ensured through placement into safe houses and other placements where the location of these homes are undisclosed and accessed only by Social Workers directly involved with the cases. Where there is a threat to victims, they are moved to different safe houses and 24 hour security personnel are hired for their safety. Where it is necessary for victims to attend court, they are transported to and from court and are assisted with security whilst at court, by officers who are parties to the criminal matter.

79. There have been instances in which victims of an ongoing case have expressed a desire to remain in Belize and they have been permitted to obtain employment as a part of their rehabilitation and reintegration process. Section 24 of the TIPS provides for restitution to be paid to victims.³⁴

80. Section 25 of the CSEC Act speaks to the privacy of victims while section 26 provides for an interpreter to assist a non-English speaking victim giving evidence during trial. Victims are not housed in detention facilities. Section 28 requires the DPP to inform the victim of the progress of the criminal court proceeding and of their right to seek compensation. Section 29 outlines the conditions for granting bail to the defendant.

81. Annual trainings are targeted to different stakeholders who deal with trafficking in persons. In 2013- 2014 the emphasis was on training for frontline personnel and the training not only focused on the provisions of the law, but also emphasized the need for all frontline entities to work together to ensure successful convictions of these cases. For this period, 258 frontline personnel from Ministries of Health, Education and Human Development, as well as from Departments of Police, Immigration, and Labour were trained. This represents 100% of social workers countrywide and approximately 80% of immigration and labour

³³ Prison Act, CAP 139 of the Laws of Belize, RE 2011, §13.

³⁴ Subsidiary Law Prison Act, *Op. Cit.* §13, §66, §68-§69

³⁴ Commercial Sexual Exploitation of Children (Prohibition) Act, 2013, §24-§26, §28-§29

officers. The goal is to train 100% of all frontline personnel countrywide and this training continued into 2015.³⁵

82. The ATIP Council conducts a continuous multilingual (English, Spanish, Hindi, and Mandarin), multimedia public information and education campaign on human trafficking. The campaign is national in scope and targets the entire population. The objectives of the campaign are interalia, to raise awareness on the issue of human trafficking and educate the public about human trafficking.

83. Components of the campaign also target potential victims by highlighting signs of human trafficking and indicating where assistance can be sought. Billboards with anti-trafficking messages are strategically dispersed countrywide and posters developed through an International Organization for Migration (IOM) project are also distributed at schools during human trafficking. In addition, the GoB in collaboration with the Office of the Special Envoy for Women and Children continues awareness campaigns targeting the demand for commercial sex acts in the country through a public service message; for instance, the “My Body is Precious” awareness campaign. Furthermore, the Belize Tourism Board (BTB) conducts ongoing sensitization sessions to target commercial sex acts and demand from a tourism perspective. The prevention messages are framed to dissuade potential persons who intend to come to Belize to engage in domestic sex tourism. The BTB has also successfully lobbied for the use of the World Tourism Organization logo “protect children” for education purposes. This logo was printed on the BTB 2013 investment prospectus.

84. The CSEC and TIPS both have provisions that cover the exploitation of children for sexual purposes and both have extraterritorial applications. These provisions can be used to prosecute nationals for sex tourism abroad, and therefore acts as a disincentive for nationals.

³⁵ Belize’s Annual Human Trafficking Report 2015. Training:
 April 16th- November 28th 2014: The Belize Tourism Board provided training to a total of 66 junior college students and 143 tourism personnel in Placencia, Orange-Walk, Cayo, Belize City, and San Pedro.
 September 25 - October 17, 2014: Child Development Foundation, contracted by the Government, held TIPS and CSEC Training for 204 teachers (Orange Walk-23, Corozal-25, Belmopan-32, Belize City-21, Stann Creek-87, Punta Gorda-16).
 September 26 - October 7, 2014: Child Development Foundation, contracted by the Government, held TIPS and CSEC Training for 78 police officers.
 December 2014-January 2015: 180 frontline personnel from Health, Police, Immigration, Labour, Education, and Human development have been trained on the amended Trafficking in Persons, CSEC, and Criminal Code legislation.
 September 2014- November 2014: 9571 high school students countrywide were educated via the simultaneous launch of the ATIPS Council Logo Competition and human trafficking awareness campaign.
 February 22, 2014 -Thirty (30) social workers participated in human trafficking victim identification and reporting training.
 October 16, 2014: Twenty (20) social workers participated in TIPS in Belize Training by Facilitators of Eagles Wings Ministries and sponsored by the US Embassy in Belmopan.
 November 12 - 14, 2014: Bertha Fuentes of Department of Human Services and Edgar Cano of the Immigration Department and Chair of the Information, Education and Communication Committee attended a Regional Conference on Migration (RCM) conference on Trafficking in Persons in Panama.
 December 4 - 5, 2014: Lliani Arthurs, Director of the Department of Human Services and Chair of the Operations Committee, attended the Fourth Meeting of National Authorities Against Trafficking in Persons in Brazil. They also conduct anti-trafficking and anti-child sex tourism training with 143 tourism personnel in Placencia, Orange-Walk, Cayo, Belize City, and San Pedro during this reporting period.

Article 9

85. The Constitution at Section 5 protects the right of a person to personal liberty and establishes that a person shall not be deprived thereof except as may be authorized by law in a number of circumstances, which are specifically listed, including for the purpose of bringing him before a court in the execution of a court order, and upon a reasonable suspicion that he has committed or is about to commit a criminal offence. A person who is arrested or detained has several entitlements: (a) to be informed within twenty-four hours of such arrest or detention, of the reasons therefor, in a language that he understands; (b) to communicate in private, with a legal practitioner of his choice (and if a minor, to communicate with parents/guardians and have time to instruct Counsel); (c) to be informed of his right to Counsel; and (d) to the remedy by way of habeas corpus to determine the validity of his detention. A person, who is not released, must be brought before the court within forty-eight hours of the arrest. If such person is not tried within a reasonable time, he shall be entitled to bail, on reasonable conditions.³⁶

86. Although Belize has a reservation to paragraph 6 of Article 14 of the ICCPR regarding compensation for wrongful imprisonment, Section 5(6) of the Constitution does provide that any person who is unlawfully arrested or detained shall be entitled to compensation from the person or authority responsible. The case of the Attorney General v Micah Thompson et al Civil Appeal No. 48 of 2011, Civil Appeal No. 49 of 2011 and Civil Appeal No. 50 of 2011 is instructive on this point. In this case, the Court of Appeal judges increased the quantum of general damages from BZD 25,000.00 to BZD 30,000.00 to each claimant for false imprisonment.

87. The Twelfth, Thirteenth, and Fourteenth Annual Reports of the Ombudsman reported 8, 14 and 10 complaints respectively related to unlawful arrests/detention, making this the fourth most complained about area against the BPD during the 2012-2014 period. The number of complaints related to unlawful detention recorded by the PSB for the same period varies on a year to year basis. In 2012 there were nine (9) complaints related to unlawful detention; in 2013 there were nineteen (19); in 2014 there were fifteen (15) complaints; and in 2015 there were ten (10).³⁷

88. Section 5(5) of the Constitution provides for bail. It states that when a person is arrested upon reasonable suspicion of having committed or about to commit a criminal offence, if he is not tried within a reasonable amount of time, he shall, unless released, be entitled to bail on reasonable conditions.

89. There are some exceptions to this general right to bail. Whereas a person is accused of murder, he will generally be remanded to prison until the determination of the trial. In a few exceptional cases, persons charged with murder were granted bail by the SC. Where a person is charged with manslaughter, he would generally be entitled to bail.

90. Also, certain legislation prohibits the Magistrate from granting bail at the first instance of the person being arraigned. These are sexual offences, offences under the Firearms Act, and offences committed with the use of firearms. Bail would have to be sought by application before a judge of the SC. As a matter of practice, the GoB does not maintain any prisoner in incommunicado detention.

Article 10

91. The Prisons Act, the Prison Rules, and the contract between the GoB and the Kolbe Foundation (KF) govern prisoners and the prison. There is only one prison in Belize, the Belize Central Prison, (BCP) and there are prisoners' holding cells located in each Police Station across the country. In 2002 the GoB contracted the management of the prison to the

³⁶ The Constitution, *Op.Cit.*, §5, §6.

³⁷ Although the reporting period under consideration for this report is to 2014, of interest, preliminary data by the PSB for 2015 indicated unlawful detention as being the second most complained about area with 10 complaints, behind excessive police force which recorded 53.

KF, after legislative changes to the Prison Act. The BCP is managed by a KF Board of Directors. There are 9 board members consisting of 5 Rotarians, 4 representatives of the GoB including the Chief Executive Officer (CEO) of the Ministry responsible for prison.

92. The Prison Controller (PC) is the Government representative whose primary function is to review all administrative and programmatic work of the KF under the contract, while ensuring that prisoners are treated in accordance with international human rights laws, the Constitution, and other laws. The PC's Office is located on the grounds of the prison.

93. In January 2015, a new system of management of inmates was introduced in which a model inmate was selected as a prefect for a particular section of the prison but not the section the inmate belongs to. This system has contributed to significant improvements in the living conditions, and other matters related to the physical welfare of inmates at the prison evidenced by the steady decline in the number of complaints received at each meeting.

94. Prisoners entering the BCP are given an orientation in which among other things, their rights at the prison are explained. Inmates are also informed of the mechanism for complaints and their right to access the CEO of the KF or the PC. The complaints mechanism is derived from the Prison Rules, Rule 59 which facilitates access to the authorities of the prison by inmates. During the consultation it was recommended that a printed copy of the policy and procedural manual should also be provided to all inmates, although it was explained that this was not the practice because of the high rate of illiteracy amongst inmates.³⁸

95. The KF focuses on the rehabilitation of prisoners. A part of the rehabilitation programme consists of a work programme in which prisoners are given the opportunity to work on road infrastructure projects. Prisoners receive a stipend on a bimonthly basis of which half is held in a banking facility and at the time of discharge, the remainder is given to the person.

96. Although the Prison Rules at Rule 85 states that consideration shall be given to the "future of the prisoner and the assistance to be given to him on and after discharge", the GoB has no system of assistance to prisoners after their release.

97. The KF recognizes that though inmates are deprived of their right to liberty, they are still entitled to other fundamental rights. To this end, training for correction officers are provided on a consistent basis. The curriculum of the human rights training is developed on the basis of various internationally accepted conventions and protocols related to the treatment of persons deprived of their liberty. For new officers, a two week basic correctional training is provided which is later followed by a "refresher's training." "Training for Correctional Leaders" is provided to senior officers. At these trainings, the mission of KF is stressed, that is, officers are to provide a secure, humane facility geared towards meaningful rehabilitation for successful reintegration into society. The training is provided by the Training Unit of the Prison Management.

98. The average prison population for 2013 was 1,566 of which approximately 550 persons were on remand, representing 35% of the prison population. At December 2014, the average was 1,532 of which approximately 500 persons were on remand, representing 33% of the prison population. At least six persons were on remand over 7 years and 1 person was on remand for 11 years. Table III contains a brief profile of the prisoners at the BCP for 2013 and 2014.³⁹

99. Within the prison there is a head of security for each building containing inmates; each building houses approximately 110 inmates, with 4-6 inmates in each cell. Each head of security is responsible for daily operations of their building, which entail ensuring that inmates have water, are fed, and in cases of illness, that the doctor is informed.

³⁸ Subsidiary Law of Prison Act, *Op. Cit.*, §49-§50, §59, §85, §150.

³⁹ It should be noted that the number of inmates on remand fluctuates during the course of the year based on their ability to secure bail.

100. There are still lingering concerns about nutrition especially in situations where inmates may have chronic illnesses which require a diet different from that provided at the Facility. Regarding health, the prison now has a doctor and two nurses as part of its full time on site staff.

101. Prisoners with mental health challenges are housed in a separate building and they are secluded from the general prison population. There is now an in-house mental health specialist; there are approximately sixty mental health inmates.

102. The treatment of juvenile prisoners by the KF is stipulated in the Prison Act. For example Section 150 of said Act specifies that junior prisoners should be kept separated from all other prisoners. At the BCP compound, juvenile prisoners are kept on the same compound as all other prisoners, but in a different building separated by a chain link fence from the building of the adult prisoners. Juveniles are provided with vocational training and behavioural modification training. Recently, in collaboration with the RESTORE Belize, Rotary and the KF, a CALS programme entitled “Literacy without Borders” was implemented. This software teaches young prisoners to read and to do basic math; the training is held during the week from 8am to 3pm. Contact with relatives is encouraged and Family Day at the prison is held every other Sunday for young inmates. There are 40 youths at the Wagner’s Facility.

103. Juvenile females are housed with adult female inmates. Over the last 13 years, there have been approximately 20 female juvenile inmates at the prison.

104. Rule 149 of the Prison Rules specifies that convicted prisoners awaiting sentence or prisoners on remand are entitled to all or any of the facilities afforded to an appellant, for the purpose of making representation before the Court. Within the prison compound, there is a physical separation between those in remand and convicted prisoners. Persons on remand are not involved in the work programme of the KF. The KF has donations totalling BZD 500,000 to construct a second rehabilitation centre that will address the needs of persons on remand.⁴⁰

105. The Prison Act at Section 83 states that as far as possible, “attention shall be paid to the maintenance of such relations between a prisoner and his family as are desirable in the interests of both.” The KF makes every effort therefore to facilitate the interaction between inmates and the family and solitary confinement is not often used as a disciplinary option. Daily Family visits are encouraged by the KF and based on good conduct, inmates can accumulate five Family Days per year. On a Family Day the entire family comes to the prison and spend at least six consecutive hours with the inmate (8am to 2:30pm).⁴¹

106. KF has a zero tolerance policy for prisoners’ abuse and other disciplinary offenses. Any and all allegations of abuses are investigated forthwith and disciplinary action is immediately taken. For example in June 2015, three security officers were fired and two placed on suspension after an investigation found them guilty of physically abusing an inmate.

107. Rule 49 of the Prison Rules lists the prison offences that a prisoner can break. They include but are not limited to: idleness, careless or negligent at work or refuses to work; assault; escapes from prison or lawful custody, and commits gross personal violence to another prisoner. The KF has a Standard Operation Manual (SOP) on the discipline of inmates and tribunal procedures. In essence, all inmates suspected and accused of any violation of Prison Rules listed in Rule 49 are entitled to disciplinary due process hearing before any imposition of disciplinary measures.⁴² In the past the Board of Visiting Justices attended to the more serious infractions committed by inmates.⁴³

⁴⁰ Subsidiary Law of Prison Act, *Op. Cit.*, §89, §144-148.

⁴¹ Prison Act, *Op. Cit.*, §83.

⁴² An Inmate Charge Sheet and an Incident Report are prepared detailing the specific rule/s violated including description of the incident. This Sheet along with an incident report is sent to the Screening Committee. This Committee review and determine whether an incident is violent or not, how the incident should be handled, and what actions to pursue. If the decision is that it is a major prison rule

108. Although Section 50 of the Prison Rules lists the various punishments that can be levied against a prisoner who has been found guilty of breaking prison rules, and the SOP repeats those punishments, in practice only a few of them are used. These include a verbal or written caution, solitary confinement for two weeks maximum (reserved for serious offences), and a suspended sanction wherein a person is allowed visitors but is kept within his cell for a determinate period. Dietary restrictions are not used as punishment. The Prison Rules prescribes various lengths of solitary confinement, for example Rule 50 (2)(c) states that the Superintendent can impose a punishment of solitary confinement of 3 days, and in Rule 52(2)(b), a Visiting Justice can order solitary confinement for 28 days (for more serious offences such as unlawful escape, possession of deadly weapon et cetera).

109. Rule 52(3) lists corporal punishment as one of the penalties that can be imposed by Visiting Justices on inmates who are charged with any of the four offences listed in 52(1). The last recorded use of corporal punishment was in 2000 when it was apparently reintroduced since 1975, and it was used on 4 prisoners on separate occasions, at the order of the Visiting Justices. However, since then it has not been used at the prison although it remains as part of the laws of Belize.

110. Visiting Justices are responsible to hear, investigate and report to the CEO and PC any complaints that prisoners may have. The Prison Rules at Rules 257- 263 enumerate the role, composition, responsibilities and appointment of Visiting Justices. The GG is responsible for their appointment although there have been no appointments in at least a decade. During the consultations, the call for appointments was reiterated by the civil society and other concerned persons.⁴⁴

111. Although the KF keeps a record of complaints by inmates, it was not possible to obtain information on the number of complaints received during the preparation of this report. In 2015 the PC started to track the number of complaints received from prisoners, and these average between 5-10 complaints per month. These complaints were related to access to medical treatment, food, appeals, and release dates.

112. In accordance with the Ombudsman Act, the Ombudsman has full access to the prison. Furthermore, the Ombudsman and the Controller have a customary practice wherein joint visits to different sections of the prison are made every two to three months. Group meetings with inmates are held providing an opportunity for inmates to voice concerns about the general prison facilities and about personal issues related to parole, remission,

violation, the Tribunal Committee is convened. The Chief Office informs the inmate of the charge and of the fact that a hearing has been scheduled along with date and time of hearing. The Chief Officer receives the list of witnesses from the Inmate and ensure that they are available and present for the hearing. An inmate can decide to waive his right to a tribunal committee hearing by signing a waiver.

If the inmate agrees to have a disciplinary hearing, the inmate is notified of the hearing and is allowed a reasonable time to prepare for his hearing. At the hearing, the Prosecuting Officer commences the hearing by presenting the evidence against the inmate. The inmate, present at the hearing has the right to present any relevant witness and has an opportunity to defend himself. The Tribunal can conduct the hearing in the absence of the inmate if the inmate refuses to attend the hearing, or disrupts the hearing or if there is a significant risk of harm to witness testifying in front of an accused inmate. The Tribunal reviews the evidence and makes a decision on the inmate's guilt or lack thereof, and what appropriate penalty to impose. If a determination of guilt is found, the inmate is advised of his right to appeal the decision and the procedure to do so. The right to appeal is specified in writing on the notice of disciplinary hearing and rights form, which the inmate receives before the hearing. If appeal is pursued, the inmate sends a letter to the Chief Executive Officer of the Kolbe Foundation. The case is reviewed and the Chief executive Officer decides whether the case is fit for appeal and the award issued at the Tribunal Hearing is suspended pending the outcome of the appeal. The CEO makes a determination within 48 hours of the appeal. There is no right of appeal to any authority by an inmate against the CEO or his designee decision regarding the inmate's appeal, nor any right for judicial review against such a decision, and the decision by the CEO in any appeal is final.

⁴³ Subsidiary Laws of Prison Act, *Op. Cit.*, §51-§52.

⁴⁴ In September 2015 Belize acceded to the Optional Protocol of the Convention Against Torture which requires it to designate independent national bodies for prevention of torture and ill treatment one year after entry into force.

appeal and remand time. Certain concerns are addressed immediately whereas others require further follow-up by the Ombudsman and the PC.

113. The Ombudsman Report for 2012 did not reflect any complaints against the BCP. The 2013 Ombudsman Report reflected 13 complaints against the BCP making it the second most complained about Department for that year. Complaints were related to the lack of visiting justices, serious health hazards, and alleged physical and psychological abuse of inmates by prison authorities. In 2014 there were 3 complaints about BCP, making it one of the least complained about departments. The Ombudsman though, reported his concerns on poor sanitation and hygiene in prison cells, overcrowding, and the medical condition of some prisoners, especially the elderly and females.

Article 11

114. The laws of Belize prohibit the arrest or imprisonment of persons on the ground of failure to fulfil a contractual obligation. The Debtors Act, CAP 168 Section 2 (a) provides that no person shall be arrested or imprisoned for failure to pay a sum of money that is a contractual penalty.

Article 12

115. Section 10 of the Constitution provides for freedom of movement of persons throughout Belize, the right to reside in any part of Belize, the right to enter or leave Belize, and for immunity of expulsion from Belize. This complete absence of restriction on movement applies to Belizean citizens, permanent residents, asylum-seekers, and refugees.⁴⁵

116. However Section 3 (a) of the Constitution outlines special circumstances the State may impose limitations and restrictions to individuals' freedom of movement; these circumstances are centred on interests of defence, public safety, or public order. Even so, Section 10(4) and (5) affords individuals whose freedom of movement has been restricted by the State based on the aforementioned circumstances access to an independent and impartial tribunal. This tribunal may make recommendations concerning the necessity or expediency of the continuation of the restriction.

117. There are no requirements for the registration of persons nor formalities or conditions governing the registration or restriction of a person as a resident in a particular area in Belize.

118. Section 8 of the Immigration Act confirms everyone is free to leave Belize whenever he/she chooses. This guarantee is subject to meeting the obligations of the persons in Belize towards the State and its laws. Section 8(1) of the Immigration Act requires persons entering or leaving Belize to have a valid passport.⁴⁶ Section 33 of the Immigration Act describes the process for leaving the country.⁴⁷

119. The GoB continues to reserve the right not to apply paragraph 2 of Article 12 of the ICCPR in view of the national interests justifying the statutory provision requiring persons intending to travel abroad to furnish Tax Clearance Certificates. The legal requirement for a "Tax Clearance Certificate" is set out at Section 60 in the Income and Business Tax Act, CAP 55 of the Laws of Belize, R.E. 2011.⁴⁸

⁴⁵ The Constitution, *Op. Cit.*, §10

⁴⁶ Consistent with the travel of minors enumerated in the Convention on the Rights of a Child (CRC), a new policy for minors travelling outside the country was introduced by the Immigration and Nationality Services (INS) in 2015, requiring that the minor be accompanied by both parents and when not possible, the parent accompanying the minor must present the written authorization of the other parent.

⁴⁷ Immigration Act, CAP 156 of the Laws of Belize, RE 2011, §8, §33, §35.

⁴⁸ Income and Business Tax Act, CAP 55 of the Laws of Belize, RE 2011, §60.

120. The fees levied on persons leaving Belize are regulated by the Belize Airports Authority Act, CAP 238 and the Border Management Authority Act, CAP 144 of the Laws of Belize, R.E. 2011. These fees vary depending on whether the person is a foreigner or a citizen of Belize and also on the mode of departure and the length of time stayed in Belize. For example, when leaving Belize by air, Belizeans pay a departure fee of BZD 35.00 while foreigners pay BZD 72.00. Foreigners departing via land from Belize are charged BZD 7.50 if they remained less than twenty four hours in Belize.

121. In regards to the issuance of passports, Statutory Instrument No 16 of 2013 outlines the requirements. Generally, once the requirements are met passport applications are not denied. Belize does not require exit visas for departure but all persons are required to check out with the authorities before departing the country.⁴⁹

122. The withdrawal of a person's passport is related to the loss of Belizean citizenship governed by the Belizean Nationality Act, CAP 161 of the Laws of Belize, R.E. 2011. Sections 18-21 of the Belize Nationality Act provides the basis for loss of citizenship, which includes inter alia, renunciation of Belizean citizenship, resident outside of Belize for five consecutive years, and, where a person has acquired citizenship fraudulently.⁵⁰

123. The Immigration Act at Section 2 (1) defines an "alien" as a person who is neither a citizen of Belize nor a Commonwealth citizen." Aliens are required to comply with the regulations that govern temporary status to afford them freedom of movement. Sections 13-19 of said Act govern the kinds of permits that are issued to a foreigner. These are: an in-transit permit; a dependent's permit; a temporary employment permit; a student's permit; a special permit; and a visitor's permit. The Director of Immigration and Nationality Services (DINS) is responsible for the issuance of these permits. If for any reason a permit is revoked, cancelled, expired, or the person failed to comply with the provisions thereof, that person is deemed a prohibited immigrant and may be dealt with as such.⁵¹

124. Section 35 of the Immigration Act deals with sanctions imposed on carriers who bring persons to Belize without adhering to entry requirements. This constitutes an offence and the carrier is responsible for the expense of removing the immigrant from Belize, in addition to the payment of any other fines that may be imposed.

Article 13

125. In 1990, the GoB ratified the 1951 Convention relating to the Status of the Refugees and the 1967 Protocol relating to the same. In 1991, Belize enacted the Refugees Act, CAP 165 which incorporated the 1951 Convention relating to the Status of the Refugees and the 1967 Protocol.

126. The Refugees Act, CAP 165 of the Laws of Belize, R.E. 2011 Section 4 details the basis for consideration of a person for refugee status and Section 6 establishes the "Refugee Eligibility Committee" (REC) which is mandated to receive and consider applications made to the Committee.

127. According to Section 8 of the Refugees Act any person who has entered Belize whether lawfully or otherwise, and who wishes to remain in Belize as a refugee, has fourteen days from the date of his arrival in Belize to apply to the Committee for recognition of his status as a refugee. Section 8 (2) of said Act further stipulates a timeframe of 30 days for the Committee to consider applications. Sections 8-9 lay out the process for appeal if an applicant wishes to challenge a refusal of the Committee to recognize him as a refugee. The aggrieved person can appeal within 14 days of being notified of such refusal, in writing, to the Minister. If the appeal is unsuccessful, the person

⁴⁹ Passport Regulations, Statutory Instrument No. 16 of 2013, §6.

⁵⁰ Immigration Act, *Op. Cit.*, §18, §20-§21.

⁵¹ Immigration Act, *Op. Cit.*, §2.

has three months within which to seek admission to a country of his choice. The three month period can be extended on application to the Minister.⁵²

128. As a result of the changing situation in the neighbouring Central American countries of El Salvador and Guatemala, the GoB decided to reactivate the REC which was dormant for more than a decade. The REC convened its first meeting in April 2015 as a response to the number of persons seeking asylum, in particular migrants from Central America who are displaced because of transnational and gang-related criminal activities in their home country.⁵³

129. The Immigration Act provides for the deportation of prohibited immigrants and Section 4 empowers Immigration Officers with “the authority and powers of a police officer to enforce any provision of this Act... relating to the arrest, detention and deportation of any person.”⁵⁴ Deportation of “prohibited immigrants” is done through a Removal Order granted by the Court or through an Order to Leave which is issued by Immigration. Six months after being served an Order to Leave, the person may apply for re-entry into the country. With the Removal Order granted by the Court, no appeal is possible. Section 5 of said Act lists the persons who are prohibited immigrants.⁵⁵

130. If a prohibited immigrant is found in Belize, or is found entering Belize, Section 26 authorizes the removal of such persons from Belize. Section 27 provides three options for the removal of prohibited immigrants from Belize: (a) immediate departure from Belize in the same vessel in which he arrived; or (b) order him to leave within sixty days and if the immigration officer thinks fit, by a specified vessel; or (c) arrest the immigrant and bring before a magistrate’s court to obtain an order for his/her removal.⁵⁶

131. No prohibited immigrant has right of appeal against an order of (a) or (b) listed above. However, as a matter of practice, officers use option (c) to ensure due process when removing prohibited persons from Belize. In 2013, 246 persons were served Orders to Leave and in 2014, 295 were issued.

132. According to the Immigration Act Section 28 when a person is detained, restricted or arrested as a prohibited immigrant, notice of that fact and the grounds of detention, restriction or arrest is to be given to the person. Every immigrant to whom such notice is given may appeal to a summary jurisdiction court within seven days of the service of the notice of the immigration officer. In practice, little use is made of the appeal system. Section 30 of said Act provides for the Minister to give directive to vary the sentence of an immigrant.

⁵² Refugees Act, CAP 165 of the Laws of Belize, RE 2011, §8- §9.

⁵³ In the late 1980’s early 1990’s, as a result of the civil war in the neighbouring countries of El Salvador, Guatemala, and to a lesser extent in Honduras, there was a large migratory flow, of persons fleeing these conflicts, to Belize. In order to manage this large flow, the GoB established a Refugee Department in 1991, which worked closely with the UNHCR. Consequently, the number of persons who have been granted refugee status during that period has been recorded in excess of 10,000 cases (estimated at 28,500 persons). Refugees were also given designated land to settle. The migration flow was stemmed, when relative peace was restored to the countries of origin, marked by the signing of the Peace Accord in El Salvador in 1992 and in 1994 in Guatemala. Additionally, as overall economic conditions improved in Central America, the Refugee Department was downsized to a Refugee Desk in 1998 in the Immigration and Nationality Department. In 1998 the UNHCR closed its office in Belize and started transitioning their work to an NGO liaison office for refugees. In 1999 the GoB instituted an Amnesty Programme which was meant to offer an opportunity to all undocumented migrants to regularize their status. This Programme attracted principally unrecognized economic migrants who had not earlier taken advantage of applying for citizenship or residency. A person becomes eligible for citizenship upon residence of five years and for permanent residency upon residence of one year. In 2014 the Nationality Act, Cap 161 was amended to now reflect that a person must attain permanent residency prior to attaining nationality.

⁵⁴ Immigration Act, *Op. Cit.*, §4-§5.

⁵⁵ With an Order to Leave, an immigrant after being served may make his way out of the country within a specified time, or he/s may be taken to the nearest border point to his country within Belize and served the Order. He is responsible to make his way home.

⁵⁶ Immigration Act, *Op. Cit.*, §26-§30, §34.

133. When an Order to Leave is to be served, the Immigration Officer prepares the court documents (court book and information and complaint) and lodges the matter before a summary jurisdiction Court. In the case where an immigrant is found guilty of an immigration offense, the DINS requests a "Removal Order" which provides for the safekeeping at the BCP and for the legal removal from Belize. The entire process for a charge is done within 48 hours.

134. According to the Immigration Act Section 34, any person who commits an offence against any of the provisions of this Act is liable to a fine not exceeding BZD 5,000 or to imprisonment not exceeding two years; or to both fine and imprisonment. Upon completion of sentence or payment of fine, the Immigration Officer makes the necessary arrangements to deport the immigrant which includes escorting the person from the prison to the port of departure through which the immigrant will be deported. However, there are administrative challenges faced with repatriating immigrants such as: securing the required travel documents, transit visas, and return travel tickets, which are not borne by the GoB.

135. Upon determination by the Court, Section 30 (6) states that "no appeal shall lie by or on behalf of an alien against a removal order made by a summary jurisdiction court." Notwithstanding, the Minister responsible for Immigration "on an application made to him by such alien, can review and rescind the Removal Order issued by the Court."

136. Expulsion of aliens is provided for under the Aliens Act, CAP 159 of the Laws of Belize, R.E. 2011. An "alien" is defined by the Immigration Act as a person who is neither a citizen of Belize nor a Commonwealth citizen. Expulsion of an alien is effected by an Expulsion Order signed by the Minister with responsibility for Home Affairs. The three circumstances for an expulsion are: (a) if the alien has been convicted of a felony or misdemeanour or other offence; (b) for the preservation of peace and good order of Belize; and (c) for the welfare of Belize or for the public safety.⁵⁷

137. According to the Aliens Act Section 3 (2), a person arrested under an expulsion order is detained in custody in such manner and place as directed by the Minister responsible for Home Affairs. In making an Expulsion Order, the Minister has the discretion to order that the alien immediately leave Belize or to have him/her arrested and detained in custody pending his deportation from Belize. If not deported from Belize within one month of arrest, he/she is released from custody as soon as possible after the expiration of that period. No bail is granted to any person detained whose arrest is ordered by an expulsion order except with the consent of the Minister. According to Section 5 of the said Act, expulsion orders are to be published in the Gazette as soon as possible after the date that an Order has been served on an alien and affixed in a conspicuous place at every police station in Belize.⁵⁸

138. Sections 8-9 of the Aliens Act state that there is a right of appeal to the SC against an Expulsion Order, but only on the ground that the person being expelled is not an alien. The person has to appeal within three days of receiving the expulsion order. The judge can extend the time for the notice of appeal to fourteen days after service of the Expulsion order. After a notice of appeal has been filed, no steps are taken to enforce the expulsion until the appeal is allowed or dismissed. Section 9 (1) of said Act also sets out the process of appeal against an expulsion order including the designated time for the process to run its course.⁵⁹

139. With respect to an alien who had previously acquired citizenship or permanent residency, that status must first be rescinded by the Minister responsible for Immigration. Reasons for rescinding citizenship are found under Section 21 of the Belizean Nationality Act.⁶⁰

140. Section 17 of the Aliens Act authorizes the Minister to "banish" from Belize any person who is not a natural born citizen of Belize where it appears to him/her that this is

⁵⁷ Aliens Act, CAP 159 of the Laws of Belize, RE 2011, §2.

⁵⁸ Aliens Act, *Ibid.* §3, §5.

⁵⁹ Aliens Act, *Ibid.*, §8, §9, §17.

⁶⁰ Nationality Act, CAP 161 of the Laws of the Belize, RE 2011, §21.

necessary for the public safety. Banishment is effected by (a) the Minister issuing a summons and a summary of allegations to the person to be banished; (b) the person to be banished making representations to the Minister; (c) the Minister hearing the representations from the person to be banished; and (d) the Minister issuing a Banishment Order, if it appears to the Minister that the evidence supports this course of action. The Minister's powers under CAP 159 are not removable into any court for quashing by certiorari.

141. Based on judicial cooperation agreements persons wanted for criminal offenses in their country of origin may also be expelled from Belize. Belize has Extradition Agreements with Guatemala, Mexico and the United States of America.

Article 14

142. The bar of Belize is governed by the Legal Profession Act, CAP 320 of the Laws of Belize, R.E. 2011 and the Legal Profession (Code of Conduct Rules).

143. The Legal Profession (Amendment) Act, 2014 provides for a General Legal Council (GLC) which is concerned with the legal profession and in particular the establishing, adopting and upholding standards of professional conduct. The GLC prescribes standards of professional etiquette and professional conduct of members and it regulates the presentation, hearing and determination of complaints relating to the professional misconduct of attorneys. The GLC is comprised of the Chief Justice or his representative, the Attorney General or his representative, three attorneys-at-law from the Bar Association and two attorneys-at-law appointed by the Attorney General.

144. Section 15 of the Legal Profession (Amendment) Act, 2014 stipulates that a person who feels aggrieved by an act of professional misconduct on the part of an attorney, can complain to the GLC. The GLC hears the application and decides whether or not to dismiss the application. Section 19 (1) allows for an appeal to the CoA by the attorney or the person aggrieved, against an order by the GLC.⁶¹

145. Section 20 (1) states that the CoA may dismiss the appeal and confirm the order or can allow the appeal and set aside the order or it can also vary the order or can allow the appeal and direct that the application be re-heard by the GLC. In the rehearing of an application following an appeal by the attorney, no greater punishment can be imposed on the attorney in question. The Legal Profession (Amendment) Act, 2014 provides for optional membership to the Association of both private and public law practitioners.

146. Apart from the regular courts Belize also has a number of specialized courts and a military court.

147. The Belize Family Court (BFC) is a specialized Court located in Belize City which determines civil and juvenile criminal matters. It has the authority to operate by virtue of the Family Court Act, CAP 93 of the Laws of Belize, R.E. 2011. Section 17 of the Family Court Act states that any person who is dissatisfied with the decision of a Family Court may appeal to the SC subject to the conditions prescribed by the Supreme Court of Judicature Act and the rules therein contained. A branch of the BFC was recently opened in Punta Gorda Town (2016) and another is expected to open in the Cayo District in 2017.⁶²

148. Section 69 of the Inferior Courts Act, CAP 94 of the Laws of Belize, R.E. 2011 establishes an Alcalde Jurisdiction Court which exercises both civil and criminal jurisdiction. Section 70 of said Act limits the civil jurisdiction of the court to disputes in which debt or damages do not exceed BZD 25.00; and with the consent of both plaintiff and defendant, all disputes in which the claim does not exceed BZD 100.⁶³

⁶¹ Legal Profession Act, CAP 320 of the laws of Belize, RE 2011, §15, §19-§20.

⁶² Family Court Act, CAP 93 of the Laws of Belize, RE 2011, §17.

⁶³ Inferior Courts Act, CAP 94 of the Laws of Belize, RE 2011, §69-§73, §75, §85.

149. The aforementioned court does not have power to hear and determine any action relating to possession of land or hereditary land title disputes; nor can it hear and determine any action for libel, slander, malicious prosecution, seduction or breach of promise of marriage.

150. Section 71 of the Inferior Court Act states that the civil jurisdiction of the court is exercised in accordance with the laws of Belize. Section 72 rules out appeal from a judgement of an Alcalde court in the exercise of its civil jurisdiction. With respect to judgement pronounced in proceedings, any person aggrieved by the decision of the court may require the court to transmit to the Chief Justice all papers and documents connected with those proceedings along with the reason for the decision.

151. Regarding the criminal jurisdiction of the court, Section 73(1) of said Act lists the criminal offences which include but are not limited to: riotous and disorderly conduct and breaches of the peace; common assaults; threatening and abusive language and larceny and praedial larceny where the value of the goods does not exceed BZD 25.00. The criminal jurisdiction of the court is exercised in accordance with the criminal law and practice of Belize. All causes and matters in the court, whether civil or criminal, are heard and determined in a summary manner.

152. Section 75(5) of the Inferior Court Act states that an Alcalde or Deputy Alcalde is the president of the court and shall have and exercise all jurisdictions, powers and authorities of the court in the district he is appointed. Section 85 states that if an Alcalde considers an offence to be more serious than those listed above, or any indictable offence, the matter is sent to the nearest summary jurisdiction court.

153. In relation to Belize's Military Court, the Belize Defence Act, CAP 135 of the Laws of Belize, R.E. 2011, provides for a two-tier court process. This first tier concerns summary trial proceedings for offences listed in the fourth schedule of the aforementioned Act. The second tier concerns the Court Martial (CM) process, which deals with offences listed in the sixth schedule of the Act. The Military Court only applies to military personnel.

154. Section 75 (2) of the Belize Defence Act mandates that the minimum number of members for a CM is three, and in instances where an Officer is the accused, or the only punishment or the maximum punishment which can be awarded in respect of a charge before the court is death, then the minimum number of members becomes five. Only persons who are deemed peers of the accused may sit as a member of a CM. A minimum level of seniority and experience must be present among the members of a CM as Section 75 (4) mandates that not less than two of the members of a CM must be of the rank of Captain or above.

155. Section 76 (1) of said Act speaks to impartiality - an officer who, at any time between the date on which the accused was charged with the offence and the date of the trial, has been CO of the accused, and any other officer who has investigated the charge against the accused or who under military law has held, or has acted as one of the persons holding, an inquiry into matters relating to the subject matter of the charge against the accused, shall not sit as a member of a court martial or act as judge advocate at such a CM. Section 78 of the Belize Defence Act grants the accused the following legislative rights: the right to challenge the suitability of any member of the CM, open and transparent hearing, regard to the health condition of the accused and fitness for trial, the rules of evidence applies, the accused is given proper opportunity to prepare his defence, need for majority decisions, plea to the jurisdiction of the court, objection to charges, no case submission, and an explanation to the accused of his rights when making his defence. Appeals of any decisions of a CM lie with the BAC.⁶⁴

156. The BAC is an independent Council established under Section 54 of the Constitution, to advise the GG on various issues, and to determine appeals by public officers arising from decisions originating in any of the Services Commission.⁶⁵

⁶⁴ Belize Defence Act, CAP 135 of the Laws of Belize, RE 2011, §76, §78.

⁶⁵ The Constitution, *Op. Cit.*, §111(1).

157. Section 6(2) of the Constitution guarantees to any person charged with a criminal offence a fair hearing within a reasonable time by an independent and impartial court established by law. Section 6(8) guarantees that hearings and the announcement of the decision of the court will be in public. Section 6(9) however, empowers the Court to exclude certain persons from the proceedings, when it is specifically authorized by law, or where that course is determined to be in the interests of justice, public morality, the welfare of minors, the private lives of persons concerned in the proceedings, national defence, public safety or public order.

158. As a matter of course, trials are held in public, with the exception of certain cases. For instance:

- Section 13 of the Family Courts Act, CAP 93 of the Laws of Belize, R.E. 2011, obliges proceedings held under the Act, which include trials of criminal offences laid against minors, to be held *in camera* unless one or both of the parties request otherwise. The Families and Children (Child Abuse)(Reporting) Regulations, made under the Families and Children Act, also obliges courts to hear the evidence of all witnesses in child abuse cases who are children, *in camera*. There are also occasions in which applications are made for witnesses to give their testimony *in camera*, for example, on the part of the prosecution, where the witness is a victim of incest or rape. These applications are invariably allowed.
- Section 12 of the ATIPS Act, provides that in instances of prosecution for trafficking in persons, the court shall hold all proceedings in camera, and shall ensure that the identity of the victim and the victim's family shall be kept confidential.
- Section 159 of the Supreme Court of Judicature Act, CAP 91 of the Laws of Belize, R.E. 2011, provides that in proceedings concerning nullity of marriages, evidence on the question of sexual capacity shall be heard in camera, unless the judge is satisfied that in the interest of the case, the evidence be heard by the public.

159. Verdicts and decisions of the Court are delivered in open Court and by and large, are available online or at the Court library. While the media is not allowed to record court trials, they are permitted to cover proceedings unless the Court has exercised its discretion under Section 6(9) of the Constitution, or legislation expressly forbids it, for example the above-mentioned legislation.

160. Section 6(3) (a) of the Constitution guarantees that everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty. Section 6(3) (b) of the Constitution guarantees that in any criminal charge, the person is to be informed promptly of the nature and cause of the charge against him in a language which he understands. It is also a requirement that the accused be provided with all of the evidence that the State wishes to use against him in Court. He must also be provided with any material which the State does not intend to use but which may be of use to him in the conduct of his defence. Disclosure at the Magistrates' Court, for summary matters, by custom, is provided at least 3 days prior to the date of the hearing and in indictable cases, at least 14 days before the commencement of the preliminary inquiry into the case, in accordance with section 32(3) of the Indictable Procedure Act. This does not prevent the State from making additional disclosure prior to the conclusion of a SC trial, but where such additional disclosure is given, the SC will exercise its discretion as to how to proceed, pursuant to Section 108 of the Indictable Procedure Act.⁶⁶

161. Section 6(3) (c) and (d) of the Constitution guarantees adequate time and facilities for the preparation of his defence and to communicate with the counsel of his own choosing. Section 6(2) of the Constitution guarantees the right to be heard within a reasonable time. Criminal Procedure Rules are in the process of being promulgated and one of the main intentions of the Rules is to shorten the time taken to complete the trial of accused persons. Under the timelines set out in the Rules, a summary matter should be

⁶⁶ Indictable Procedure Act, Cap 96 of the Laws of Belize, RE 2011, §32, §108.

disposed of within 6 to 9 months of the charge and an indictable matter within 2 years of the charge. The Chief Justice has acknowledged the human rights implications resulting from the excessive remand time and as mentioned above steps are being taken to resolve the issue.⁶⁷

162. Section 6 of the Constitution states “... and except with his own consent, the trial shall not take place in his absence unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence”. There are other circumstances in which the trial may proceed in his absence. For example, Section 28(1) (a) of the Summary Jurisdiction (Procedure) Act where he has been duly informed of the time and place of the hearing and has not appeared, and where the accused is removed from court for misconduct at Section 87 of the Indictable Procedure Act.⁶⁸

163. There is no constitutional right to have legal assistance provided by the State, but Section 194(1) of the Indictable Procedure Act empowers the SC to assign Counsel to a person accused of a capital offence, if it appears that he is unable to retain Counsel on his own.⁶⁹ This assigned Counsel is then paid out of the Consolidated Fund (Section 194(2)). Section 39 of the Court of Appeal Act, CAP 90 of the Laws of Belize, R.E. 2011 makes similar provision in the context of an appeal in a capital case. While the law is specific to capital cases, persons accused of other serious offences have benefitted from the assignment of Counsel by the Court in cases where it appeared that they could not retain Counsel, both at the SC and at the CoA.⁷⁰

164. The Legal Advice and Services Centre was opened in Belize City in 1981 to serve the legal needs of the poor. The Centre administers legal aid and provides legal advice, assistance, referral and representation for those who are eligible. General cases include family, land, civil and estate matters. Murder, as well as civil matters that exceed BZD 20,000 are excluded from the Centre’s jurisdiction. In terms of legal fees this is determined on a case by case basis by the attorney assigned to the client, and there have been instances where fees were altogether waived. Even in cases where a fee is levied, this is not comparable to that charged by private practitioners. The Centre also has a Legal Information Bureau in Orange Walk District and in Belmopan which is each staffed by a paralegal, paid by the GoB. The Centre estimates that on an annual basis it provides legal aid to 100-150 cases of family matters (divorce, adoption and family court cases), 25-30 civil cases, 50 criminal procedure cases, and at least 50 cases related to administration of estates.

165. Section 6(3)(e) of the Constitution guarantees the right to the accused to examine in person and to obtain the attendance and carry out the examination of witnesses to testify on his behalf. Part IV of the Evidence Act, CAP 95 of the Laws of Belize, R.E. 2011 concerns the competence and compellability of witnesses and the manner in which they can be called and questioned.

166. Section 6(3) (f) of the Constitution provides for the free assistance of an interpreter if he cannot understand or speak the language used at the trial; this applies at all stages of the proceedings, and also at Section 104 of the Evidence Act.⁷¹

167. Section 6 (6) of the Constitution guarantees the right of an accused not to be compelled to give evidence at trial. Section 58(a) of the Evidence Act re-iterates that right - the defendant, while competent to testify in his own defence, shall not be called except upon his own application. In relation to confessions, they are only admissible if the State has proven to the satisfaction of the judge that they were obtained voluntarily – Section 90 of the Evidence Act. The Commissioner Guidelines for Treatment of Persons in Police

⁶⁷ Amandala, Excerpts of Speech by Justice Kenneth Benjamin, Opening of Supreme Court, Belize, January 13, 2015.

⁶⁸ Summary Jurisdiction (Offences) Act, CAP 98 of the Laws of Belize, §28-§87.

⁶⁹ Indictable Procedure, *Op. Cit.* §194.

⁷⁰ Court of Appeal Act, CAP 90, Laws of Belize, RE 2011, §39.

⁷¹ Evidence Act, CAP 95 of the Laws of Belize, RE 2011, §104.

Custody, brought into force in 2016, are guidelines for the police when interviewing persons in police custody and obtaining statements from them. It prescribes the procedure which must be followed by the police in cases in which a suspect or a person charged with a crime wishes to provide a statement. It requires the electronic recording of all statements made by persons in police custody. A breach of these Rules may result in the exercise of the Court's discretion to exclude the statement in any ensuing proceedings.⁷²

168. There is a separate regime for the treatment of juveniles, created by the Family Courts Act and the Juvenile Offenders Act, CAP 119 of the Laws of Belize, R.E. 2011 which acknowledges age-commensurate treatment and promotes diversion from the criminal justice system as a first option for young offenders.

169. The Supreme Court of Judicature Actenables, in Section 24 and Part X of the Act, appeals from all Inferior Courts. The Court of Appeal Act in Part IV Section 23 makes provision for appeals against conviction on indictment at the SC, and against orders of the SC from appeals from the Inferior Court, Section 25. The Caribbean Court of Justice Act, CAP 92 of the Laws of Belize R.E. 2011, enables in Sections 6-8 appeals from the CoA to the CCJ.

170. A person has the option of seeking redress for the breach of his constitutional rights under Section 20 of the Constitution. Section 20(2) empowers the SC, on such an application, to make such declarations and orders, issue such writs and give such directions as it may consider appropriate. Convicted persons are usually advised of their right of appeal by the Court, and where they are sentenced to terms of imprisonment, they are facilitated by prison staff to prepare and lodge their notices of appeal.

171. Section 6(5) of the Constitution speaks to the criminal trial of a member of a disciplined force who has already been dealt with by the disciplinary law of that force. It does not bar the criminal trial, but obliges the Court, if he is to be sentenced, to take into account any punishment that may have already been imposed. Section 92 of the Indictable Procedure Act, also enables pleas of *autrefois acquit* and *autrefois convict* to be entered, and they must be disposed of before the accused is called upon to plead further.⁷³

Article 15

172. The Constitution at Section 6(4-5) enshrines the principle of non-retroactive jurisdiction.

Article 16

173. The Constitution at section 6 (1) states that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law.

Article 17

174. Section 14 of the Constitution makes provision for a right to privacy although section 14(2) also provides the circumstances for the infringement of this right. Everyone has the right to the protection of the law against such interference or attacks. Any person who alleges that his right to privacy is being infringed or likely to be infringed can seek redress from the SC.⁷⁴

175. Under the Belize Telecommunications Act, CAP 229 of the Laws of Belize R.E. 2011 privacy of telecommunications is guaranteed. Only a judge can sanction the release of transcripts of private telecommunications if he is satisfied that such information is material to the criminal proceedings. An order is granted only on the application of the DPP.

⁷² Evidence Act, *Ibid.*, §58, 90.

⁷³ Indictable Act, *Op. Cit.*, §92.

⁷⁴ The Constitution, *Op. Cit.*, §9, §14.

Information is requested and released to the BPD for the purpose of criminal investigations. Section 44(2) of the Act states that any employee or agent in the telecommunication sector who interferes with, makes use of, or records the contents or substances of a telecommunications message commits a criminal offence. A person may also apply for an injunction to the SC under the Act if it appears his right to privacy will be violated under the Act.

176. Electronic surveillance including the interception of telephonic communications and wire-taps are governed by the Interception of Communication Act of 2010. Section 3(1) of said Act expressly prohibits the unauthorized interception of communication, including communication via the postal service. This Act also speaks to the storage of data and the control of the use of stored data. The BPD is in charge of surveillance. Section 5 of the Act speaks of the manner to obtain a court-ordered interception direction, while Section 6 stipulates the factors the SC judge considers in issuing interception direction. The Act allows for the sender or recipient of communication to give written authorization for the interception of their communication.⁷⁵

177. Section 9(1) of the Constitution provides the protection against the arbitrary search of one's person and premises without his consent. Section 9(2) of the Constitution establishes the conditions in which the laws of Belize can be able to grant the search of persons or entry of private property. Generally all laws governing the authority to search a person or enter a premise requires a search warrant consistent with Section 9(2) d of the Constitution.

Article 18

178. Section 11 (1)-(4) of the Constitution guarantees the freedom of conscience, including freedom of thought and religion. There are various religious denominations co-existing peacefully with one another in Belize. The 2010 Census shows this variety consists of: Anglican, Baptist, Hinduism, Seventh Day Adventist, Salvation Army, Roman Catholic, Rastafarian, Pentecostal, Nazarene, Mormon, Methodist, Mennonite, Jehovah's Witnesses, and Islam. Belize continues to be predominantly Roman Catholic with this religion accounting for 40.1% of the population.⁷⁶

179. The Education and Training Act, CAP 36 of the Laws of Belize provides for worship and religious instructions. Sections 54 and 55 speak to corporate worship, singing of the National Anthem, and flag raising ceremonies at the government and government aided preschool, primary and secondary school. The Education Rules 2000 makes provisions for denominational schools to undertake religious instructions and observance in the faith of the denomination. However, in all cases, no child is obliged to undertake religious instruction if objection is made in writing by either of his parents or otherwise communicated in reliable form.⁷⁷ In terms of the level of denominational schools in 2013 at preschool level it was 53%, 67% at primary school level, and 46% at secondary school level. Religion is widely taught in government schools.⁷⁸

180. Religious denominations are required by law to register under the Companies Act, CAP 250 of the Laws of Belize, R.E. 2011. Churches are registered under Section 21 of said Act "Companies Limited by Guarantee". A Memorandum of Association and an Article of Association along with a fee of BZD 584 is payable for a certificate of incorporation. In addition, Sections 19 and 20 provide that a company formed "for the purpose of promoting art, science, religion, charity or any like object, shall not, without the license of the Minister, hold more than two acres of land ..."⁷⁹

⁷⁵ Interception of Communications Act, 2010, §3.

⁷⁶ The Constitution, *Op. Cit.* §11.

⁷⁷ Education Rules, 2000, §121.

⁷⁸ Education Act, *Op. Cit.*, §54, §55.

⁷⁹ Companies Act, CAP 250 of the Laws of Belize RE 2011, §19, §20.

181. Religious denominations can also apply for the status of a non-governmental organization under the Non-Governmental Organizations Act, CAP 315 of the Laws of Belize, R.E. 2011 subject to certain requirements. Section 13 of said Act stipulates that NGOs are exempt from the payment of income tax, and may also be eligible for exemption from business tax, or any other tax, duty or impost levied by the GoB. Sections 15-17 enumerate the responsibilities of an entity after being granted NGO status. There are seven churches registered as NGOs; they are not entitled to cash subventions from the GoB.⁸⁰

182. Belize has no State religion. It also does not have a mandatory military draft.

Article 19

183. Section 12 of the Constitution guarantees the freedom of expression.⁸¹

The regulation of television and radio broadcast is encompassed in the Belize Broadcasting and Television Act, (BTA) CAP 227 of the Laws of Belize, R.E. 2011 which establishes the Belize Broadcasting Authority (BBA) as the authority responsible for regulating the same. The Board of the BBA is composed of eight persons appointed by the Minister responsible for Communications. The BBA regulates broadcasting subject to the licensee's terms and conditions. Section 2 of said Act states that the BBA is responsible for inter alia, advising the Minister, issuing licences and general oversight of services provided.⁸²

184. According to Section 4 of the BTA licensees are required by the terms of their license as prescribed in the Schedule to the BTA to, inter alia: provide a reasonable and balanced opportunity for the free expression of differing views on matters of public importance. The annual license fees are specified in the BTA Regulations while the process of application of license is specified in Section 5 of the BTA. The BTA is currently under review and will among other things, provide for a procedure of appeal in cases where licenses are denied. There are thirty eight radio stations - ten on air or over the air television stations, and, thirty one cable operators; all are privately owned.

185. Regulation of newspapers is covered under the Newspapers Act CAP 242 of the Laws of Belize, R.E. 2011. All newspapers are subject to the constraints of Belize's Libel Laws. In the functioning of democracy, the Courts of Belize routinely adjudicate on libel suits brought by individuals against newspaper publishers. There are nine recognized newspapers in Belize and one privately owned newspaper is published twice weekly while the others are weekly publications.

186. There have been neither attacks nor reports of attacks against journalists in Belize through prosecution or otherwise as an attempt to infringe on their right to freedom of expression. Journalists publicly present, on a daily basis, a wide range of viewpoints without government interference. Journalists travel freely and work in a safe enabling environment free from recrimination and undue interference. Everyone including journalists have recourse to the Courts and to the Ombudsman to address any perceived infringement of a constitutionally guaranteed freedom by the GoB.

187. The Public Utilities Commission Act, CAP 223 of the Laws of Belize, R.E. 2011 establishes the Public Utilities Commission (PUC) as an autonomous commission composed of seven members. The Commission is to ensure that the services rendered by a public utility, including cable service and internet service providers, are satisfactory and that the charges imposed are reasonable.

188. The Belize Telecommunications Act, CAP 229 of the Laws of Belize, R.E. 2011 at Section 15 states that no person shall provide any telecommunications service except under and in accordance with a telecommunication service license issued by the PUC. In granting

⁸⁰ Non-Governmental Organizations Act, CAP 315 of the Laws of Belize, RE 2011, §13.

⁸¹ The Constitution, *Op. Cit.*, §12.

⁸² Belize Broadcasting and Television Act, CAP 227 of the Laws of Belize, RE 2011, §2, §4.

a license, the PUC may among other relevant factors, have regard to public interest, national interest, and security.⁸³

189. Section 19 of said Act provides for the PUC to forfeit a license if a licensee fails to disclose and submit information on the existence of an agreement which is likely to affect competition or frustrate the objects of the Act. The PUC can suspend, vary or revoke, or deny the renewal of a license if inter alia, the licensee contravenes this act, fails to pay the requisite fee of the licence, and fails to comply with the terms and conditions of the license.

190. The Belize Telecommunications Act at section 19(13) states that before a license or authorization is suspended, revoked or not renewed, the PUC shall give written notice of its intention to do so and lay out its purpose for such action and provide the licensee with an opportunity to: “make representation and support his view; and correct any breach of the terms and conditions of the license or any interferences caused to other license holders.” The GoB does not restrict access to the internet. There are 29 licensees of internet service providers.

191. The Libel and Defamation Act, CAP169 of the Laws of Belize, R.E. 2011 governs the matter of libel and defamation. Section 9 of the Act states that “a fair and accurate report published in any newspaper or broadcast of the proceedings of a public meeting...shall be privileged unless it is proved that such report or publication was published or made maliciously.” Section 12 states that “no criminal prosecution shall be commenced against any proprietor, publisher, editor or any person responsible for the publication of a newspaper for any libel published therein without the order of a judge in chambers being first had and obtained.”⁸⁴

192. The Freedom of Information Act, (Freedom Act) CAP 13 of the Laws of Belize, R.E. 2011 provides the “right for persons to have access to a document of a Ministry or a prescribed authority...” A request for access to a [public] document in a Ministry has to be done in writing to the Ministry and the Ministry has an obligation to inform of its decision on access within two weeks. The Ministry or prescribed authority, in general, should grant access to the document unless it is considered an exempt document. Exempt documents include, but are not limited to, Cabinet documents; trade secrets; privileged or confidential information of a legal or medical nature; information which would prejudice a criminal investigation; documents which affect the security, defence, or international relations of Belize; documents which were shared in confidence by another State to Belize. The Freedom Act at Section 22(1) states that a document can be exempt if the disclosure of the document would be contrary to public interest. Where an applicant is denied, the Ministry has to inform the applicant in writing citing the reason for denial, the name and designation of the person giving the decision, and to inform of his/her right to apply for a review of the decision.⁸⁵

193. Section 35(1) provides for a review of a decision refusing to grant access to a document by application to the Omb. The applicant may make a written request to the Ombudsman to review the denial or deferral of access, of which such applications must be made within 21 days of the decision. The Ombudsman may uphold the decision or may grant access to the requested documents. Where it is established that a document is exempt, the Ombudsman does not have power to decide access to that document.⁸⁶ The 2014 Ombudsman Annual Report noted that for the first time in the history of the Omb, three complaints were received in connection with the Freedom Act.⁸⁷

194. An applicant has the right to appeal to the SC if dissatisfied with the decision of the Ombudsman.

195. The Undesirable Publications Act CAP 243 of the Laws of Belize R.E. 2011, gives the Attorney General the authority to prohibit the importation of publications if, in his

⁸³ Belize Telecommunications Act, No 16 of 2002, §15, §19.

⁸⁴ Libel and Defamation Act, CAP 169 of the Laws of Belize, RE 2011, §9, §12.

⁸⁵ Freedom of Information Act, CAP 13 of the Laws of Belize, RE 2011, §11-§13.

⁸⁶ Freedom Act, *Ibid.*, §22, §35, §43.

⁸⁷ The Fourteenth Annual Report of the Ombudsman, 2014, p. No. 21-22.

opinion, the publication is contrary to public interest. The Attorney General has never exercised its discretion under this Act.

Article 20

196. Belize does not have legislation dealing with the prohibition of propaganda for war. The application of the laws of Belize is on the basis of non-discrimination as specified in Sections 3 and 16 of the Constitution.⁸⁸

Article 21

197. The right to peaceful assembly is guaranteed in the Constitution at Section 13 which states that a person shall not be hindered in the enjoyment of his freedom of assembly and association subject to certain exceptions.

198. The Control of Public Meetings and Public Processions Act, CAP 132 of the Laws of Belize, R.E. 2011 provides the requirements necessary to hold an assembly. Sections 4 and 7 of said Act allow for public meetings and processions provided that the required permit is obtained from the senior police officer within the district where the meeting/procession is to be held. Where a permit is denied, an appeal can be made to the magistrate who decides whether to allow the appeal.⁸⁹

199. In almost all cases where the process has been duly followed there have been no registered allegations by the BPD that violence was used against peaceful and unarmed demonstrators. However, over the period 2000-2015 there have been several incidents of civil disobedience which were triggered principally by socio-economic factors. For example in 2001 there was an uprising related to a dispute in the transport sector; in 2005 the unions agitated against the economic policies of the then government. There have also been several incidents of demonstration against police actions and spikes in crime and violence. Of all these incidents there was only one death reported and several minor injuries.

Article 22

200. The Constitution provides for the freedom of association including the right to belong to trade unions at Section 13(1).⁹⁰ The Labour Act at Section 30 states that “nothing in any contract of service shall restrict the right of any worker to join a registered trade union, to participate in the activities of a union or to associate with persons who are forming a trade union”. The Labour (Amendment) Act of 2011 at Section 42(1) also protects a worker from being dismissed on the grounds of union membership or participation in union activities. The Trade Unions and Employers’ Organizations (Registration, Recognition and Status) Act, CAP 304 of the Laws of Belize, R.E. 2011 Section 4 lists the rights related to union that every employee is entitled to.⁹¹

201. Section 3 of the Trade Unions and Employers Organizations Act prohibits persons working in the Belize Defence Force, the Belize Police Department, the Belize Prison Service and the Belize Fire Department from belonging to a union.⁹²

⁸⁸ The Constitution, *Op. Cit.*, §3, §16.

⁸⁹ Control of Public Meetings and Public Processions Act, CAP 132 of the Laws of Belize, RE 2011. §4, §7, §14.

⁹⁰ The Constitution, *Op. Cit.*, §13.

⁹¹ The Labour Act, *Op. Cit.*, §30

Labour (Amendment) Act, 2011, No 3 of 2011, §42.

⁹² Trade Unions and Employers Organization (registration, Recognition and Status) Act, CAP 304, RE 2011, §3.

202. The Services Commissions, consisting of the Public Services Commission, the Judicial and Legal Services Commission, and the Security Services Commission, independently regulate the public service, the judicial and legal service, and the security service, respectively. These Commissions have the authority to appoint officers that fall under their jurisdiction, as well as regulate the conditions of their service and exercise disciplinary control, including the ability to remove these officers from their posts.⁹³

203. The Trade Union Act CAP 300, and the Trade Unions and Employers Organizations (Registration, Recognition and Status) Act, CAP 304 of the Laws of Belize, R.E. 2011 govern the formation and activities of trade unions. Sections 16-18 of said Act states that a trade union must be registered with the General Registrar (GR) and lists the requirements for doing so. Section 16(e) of the said Act provides for any person aggrieved by refusal of the GR to register a combination as a trade union, the withdrawal or cancellation of a certificate of registration, to appeal to the SC.⁹⁴

204. The Trade Unions and Employers Organizations Act provides for a system of registration and certification of trade unions as a bargaining agent of a bargaining unit. Section 13(5) of said Act states that the GR registers a trade union or an employers' organization once he is satisfied that all the requirements have been met. Any person aggrieved by the Registrar's refusal or failure to register a trade union or employers' organization may appeal against such to the Tripartite Body for determination.⁹⁵

205. The Tripartite Body is responsible for the certification of bargaining agents on behalf of workers in a bargaining unit for the purpose of negotiating any collective bargaining agreement. The Tripartite Body is appointed by the Minister and is comprised of representatives appointed by the Minister based on persons nominated by trade unions and employers' organization.

206. Sections 13-16 of the Trade Unions and Employers' Organizations Act list the responsibilities of a registered trade union or employers' organization and empower the Registrar to take action against those unions and employers' organizations which fail to comply. In a situation of cancellation or suspension of a certificate, the union or employers' organization can appeal to the Tripartite Body.

207. Sections 4 and 7 of said Act reiterate the right of employees and employers to freedom of association including the basic rights involved with unionization. Section 11 provides redress at the SC if any person considers that any right conferred upon him by said Act has been infringed.

208. There are currently fifteen (15) trade unions and three (3) employers' organizations and they do not receive financial assistance from the GoB. Approximately 6%-8% of the labour force belongs to a union. There has not been any application for registering a union that has been rejected. Union size varies and the smallest union has two hundred members while the largest has six thousand members. The National Trade Union Congress of Belize (NTUCB) which is the umbrella organization for trade unions receives a subvention of BZD 40,000 a year and one trade union, the Public Service Union, receives an annual subvention of BZD 24,000. In addition the GoB provides on secondment, a public servant to work with the NTUCB.

209. Although there is not a fixed organizational structure across unions, generally, the annual general meeting is the highest decision-making body in a union. There is a general council made up of all the branch chair-persons and the executive. The executive is comprised of a president, two vice presidents, first and second vice, general secretary, treasurer and councillors, auditors, and trustees. At the branch level there is a branch executive made up of a chair person, vice chair, treasury, secretary and councillors.

210. The Trade Union Act provides for peaceful picketing at Section 30 (1). The Trade Unions and Employers Organizations Act at Section 4(c) provides for trade unions to strike.

⁹³ The Constitution, *Op. Cit.*, Part VIII, §105 – §111.

⁹⁴ Trade Unions Act, CAP 300 of the Laws of Belize, RE 2011, §16-§18.

⁹⁵ Trade Unions and Employers Act, *Op. Cit.*, §4, §7, §11, §13-16.

However, strikes are viewed as last resort and the different modes of dispute settlement are usually fully exhausted before proceeding to a strike. To this end, the Ministry with responsibility for Labour seeks as much as possible to ensure that collective bargaining agreements contain “effective and adequate procedures for the avoidance and settlement of disputes arising from the interpretation, application or operation of the agreement”.⁹⁶

211. The Settlement of Disputes in Essential Services Act, CAP 298 of the Laws of Belize, R.E. 2011 at Section 2, lists the sectors governed by this Act as it relates to dispute settlement. Section 15 of said Act states that employers cannot declare or take part in a lock-out and a worker shall not take part a strike in connection with any trade dispute unless the dispute has been reported to the Minister.⁹⁷

212. The Trade Disputes (Arbitration and Inquiry) Act, CAP 299 of the Laws of Belize, R.E. 2011 governs trade dispute settlement between union and employers for those persons falling outside the scope of the persons listed in the Settlement of Disputes in Essential Services Act.

213. There are approximately six to seven political parties and there is no requirement for political parties to be registered. However, there have been discussions recommending that legislation requiring registration of political parties be put in place for monitoring purposes.

214. Associations can choose to be registered under the Companies Act, CAP 250 of the Laws of Belize, R.E. 2011. Associations can register under Section 19 as “associations not for profit” or as “companies limited by guarantee” at Section 21. Associations seeking non-governmental status are required to register under the Non-Governmental Organizations Act, following registration under the Companies Act.

Article 23

215. The Constitution provides equal protection of men and women. In addition, the Constitution at Section 26 accepts applications to be registered citizens of Belize from any person who is married to a citizen of Belize, and any person who has been resident continuously in Belize for five years.⁹⁸

216. The Belizean Nationality Act (“Nationality Act”) CAP 161, at Section 5(2) establishes citizenship by descent in the case of persons born outside Belize. The Nationality Act at Section 11 states that a person who is the spouse, widow or widower of a citizen of Belize is eligible for citizenship if the applicant has continuous residence of one year in Belize. An applicant is considered legally resident in Belize as of the date of marriage even if the applicant should have entered Belize illegally.

217. The Marriage (Amendment) Act of 2005 increased the minimum age of marriage with parental consent from 14 years to 16 years. However, the cultural practice of the Maya is to have a cultural ceremony representing a union at the age of 14.

218. The 2010 Census reported 67,538 married persons, and 48,011 persons in common law relationships. There were 6,346 divorces reported. Code 100 (1) of the Criminal Code, states that a man is under duty to supply the necessaries of health and life to his wife, and to his legitimate or illegitimate son or daughter. Failure to provide the necessaries of life is considered ‘harm’.⁹⁹

219. In the event of a legal separation the Married Persons (Protection) Act, CAP 175 of the Laws of Belize, R.E. 2011 stipulates the rights of the husband and the wife toward each other and toward their children. Sections 2 and 3 list the grounds on which a married woman

⁹⁶ Trade Unions Act, *Op. Cit.*, §30, 41.

⁹⁷ Settlement of Disputes in Essential Services Act, CAP 298 of the Laws of Belize, RE 2011 §2, §12, §15.

⁹⁸ The Constitution, *Op. Cit.*, §26.

⁹⁹ In the Criminal Code, necessaries of life is defined as proper food, clothing, shelter, warmth, medical or surgical treatment and any other matters which are reasonably necessary for the preservation of life and health of a person.

can apply for an Order of the Court.¹⁰⁰ Whereas Section 2 allows the married woman to apply for an order of maintenance against her husband, Section 4 does not similarly provide for the husband to apply for such an order against his wife.¹⁰¹

220. Any child born in or out of wedlock is entitled to equal protection under the law. The Families and Children Act, (FACA) CAP 173 of the Laws of Belize, R.E. 2011 Sections 5 and 6 establishes that the parent/guardian is responsible for the protection and care of a child. The child is also to be protected from discrimination, violence, abuse and neglect. Additionally, it is the duty of the parent/guardian who has custody of the child to maintain the child.¹⁰²

221. Section 16 of the FACA deals with a child born out of wedlock and grants full guardianship of the child to the mother and states that furthermore, the child has all rights as that of a child born within wedlock.¹⁰³ Notwithstanding the right of the single mother, Section 85 provides for the father of a child born to a single woman to apply to the court for an order granting him right of access to, or legal custody of the child under certain circumstances.¹⁰⁴

222. Sections 48-97 of said Act address the maintenance rights and duties of members of the family towards each other. Section 48 states that the man is required to maintain his own children as well as the children his wife may have had living with her at the time of their marriage. While the laws ascribe financial responsibility for the care of the child to the father, Section 49 requires the mother to maintain and care for the child in certain circumstances.

223. Section 53 allows mother, father, or guardian who has custody of the child to apply for a maintenance order against the non-custodial parent. The periodical sum is determined by the means of the person against whom the order is made.

224. Section 2 of the Married Persons (Protection) Act enables a married woman to apply for an order for legal custody of the children. Section 3 of said Act extends similar right to the husband. In addition, a married woman can seek an order against her husband on the basis that the husband has wilfully neglect reasonable maintenance of his children. In terms of an order for payments, the Married Persons (Protection) (Amendment) Act of 2010 was amended to remove the child maintenance of BZD 50.00 per week and to have the Court determine maintenance based on the means of both the husband and wife. Section 12 of the Married Persons (Protection) Act also provides for a married woman to apply for child support up to age 18 in certain specified conditions, such as for example, if the child is mentally challenged.

225. The Married Women's Property Act, CAP 176 of the Laws of Belize, R.E. 2011 at Section 3 confirms the right of a married woman to engage and dispose of any asset as a single woman and to be subject to the laws governing such. Section 4 allows married women to have equal voice on property acquired. Section 14 entitles the married woman to have in her own name, the same remedies for the protection and security of her own property as if she were a single woman.¹⁰⁵

226. Section 54 of the Administration of Estates Act, CAP 197 of the Laws of Belize, R.E. 2011 governs succession to real and personal estate on the death of a husband or wife and in the absence of a will. The Married Women's Property Act at Section 7 deals with the acquisition and disposition of a trust estate by a married woman.¹⁰⁶ A woman can become a beneficiary of a trust property under a will or codicil. In some circumstances with regard to matrimonial properties, where a question of ownership arises between husband and wife, the court is allowed to determine "what was in the mind" at the time of the purchase and

¹⁰⁰ The Married Persons (Protection) Act, CAP 175 of the Laws of Belize, RE 2011, §2-§3.

¹⁰¹ The Married Persons Act, *Ibid.*, §4.

¹⁰² Families and Children Act, CAP 173 of the Laws of Belize, RE 2011, § 5, §6.

¹⁰³ Families Act, *Ibid.*, §85.

¹⁰⁴ Families Act, *Ibid.*, §16

¹⁰⁵ Married Women's Property Act, CAP 176 of the Laws of Belize, RE 2011, §3, §4, §14

¹⁰⁶ Married Women's Property, *Op. Cit.*, §7

then rule accordingly. Women are entitled by law to acquire, possess and own land in Belize with no discrimination. Women have the right to choose the place where they live.¹⁰⁷

227. The Supreme Court of Judicature Act governs divorce. Section 129 allows a petition for divorce by either the husband or the wife on the grounds of adultery, persistent cruelty, desertion, unsoundness of mind, and irretrievable breakdown of marriage.¹⁰⁸

228. A petition for divorce can also be presented on the grounds that the marriage has broken down irretrievably and that the couple has been living separately for at least three years preceding the petition. Section 131 of said Act states that petitions for divorce are to be made at least three years since the marriage. However, a petition may be accepted without the three years requirement if the case is one of exceptional hardship by the petitioner or exceptional depravity by the respondent. Deciding whether to accept a request before the three years, the judge considers the best interest of any children, and whether there is reasonable probability of reconciliation between the spouses. Section 153 of said Act provides for custody, maintenance and education of the children and if the Court sees fit, to direct that the children be placed under the protection of the Court.¹⁰⁹

229. In regards to division of property, in considering whether the order is just and equitable, the court looks at certain guidelines as enumerated in Section 148E (5), these include the non-financial contribution of the woman in the capacity of housewife, companion, home-maker, or parent, and the need to protect the contribution of the woman, especially one of whom wishes to continue her role as mother.

230. The amendment to the Supreme Court of Judicature Act in 2003 at section 148:01 now provides for common law relationships and defines “common law union” or “union” as the relationship that is established when a man and woman who are not legally married to each other nor to any other person, cohabit together continuously as husband and wife for a period of at least five years. Section 148 states that persons in the common law union have the same rights as a spouse in a marriage.¹¹⁰

Article 24

231. The rights of children are firmly protected in Belize’s law which is further reflected in its ratification of international conventions and protocols related to these rights.¹¹¹

232. In terms of birth registration, Section 10 of the Registration of Births and Death Act, CAP 157 of the Laws of Belize, R.E. 2011 requires the parent or guardian to register a child within forty two days after birth. Section 18 of said Act lays out the procedure to be followed when the registration period is not adhered to. Failure to do so may result in a fine being levied upon the person with the responsibility of registering the birth. Under the same Act it is the responsibility of the health care institutions or professionals who attends to a live birth, to ensure that the registration of the birth of the child is completed before the child is discharged from the institution, or where the birth does not occur in a health care facility, within the first seven (7) days of the child’s life.¹¹²

233. The GoB views the right to a name as a fundamental right of the child and over the years, has consistently sought to improve its birth registration services through improvements within, and partnerships with several international organizations.

¹⁰⁷ Administration of Estate Act, CAP 197 of the Laws of Belize, RE 2011, § 54

¹⁰⁸ Supreme Court of Judicature Act, CAP 91, Laws of Belize, RE 2011, §129.

¹⁰⁹ Supreme Court, *Ibid.*, §131.

¹¹⁰ Supreme Court, *Ibid.*, §148:I.

¹¹¹ The Convention on the Rights of a Child was ratified in May 1990. The two optional protocols to the convention, namely the Optional Protocol on the involvement of children in armed conflict, and the Optional Protocol on the sale of children, child prostitution and child pornography were also ratified in addition to the other Inter American Conventions relating to the rights of a child. In 1998 the Families and Children’s Act was passed to incorporate specific provisions of the CRC in domestic legislation.

¹¹² Registration of Births and Death Act, CAP 157 of the Laws of Belize, RE 2011, §10, §12.

Registration of birth is required in order to obtain a Belizean birth certificate. Belizeans may not apply for a social security card, a passport, register as a voter or, for school aged children, be registered to take external examinations without this document. Birth certificates can be accessed through the Vital Statistics Unit (VSU). In 2007 a MoU was signed between the MoH and the VSU to improve and strengthen the vital registration system by establishing points of registration at major hospitals to promote the registration of babies immediately after birth. This partnership has resulted in an improved system of birth registration. A major challenge for the registering of children involves those in rural communities who deliver their children at home, attended by a midwife. These children are the least likely to be registered.

234. In 2011, UNICEF supported GOB to implement the *Make Your Child Count Campaign on Birth Registration* which sought to reach children in the remote rural communities across the country. One of the major bottlenecks to accessing birth registration services identified prior to the campaign implementation was distance to the nearest service points. The campaign removed this bottleneck by taking the services to isolated communities. Some communities have limited access to transportation and the community based approach employed by the campaign was the main factor contributing to such large numbers of boys and girls accessing services.

235. Belize has a registration rate of 96% and the VSU continues to partner with UNICEF in trying to attain 100% birth registration.

236. The right for children to acquire nationality is provided for in the laws of Belize. The Nationality Act at Section 17 (2) provides for children to be included on a certificate of citizenship by registration. Where initially the names of minors were not included in an application for citizenship, the certificate can be amended to include the minor children of the applicant. Section 17 also provides for a minor to have the status of a citizen of Belize if his parent has included his name in that parent's certificate of registration (as a citizen of Belize). Section 5(2) of the Nationality Act also states that a person has status of a citizen of Belize by descent if his mother or father is a citizen of Belize.¹¹³ The Immigration Act at Section 10 states that a minor who has entered Belize whether legal or illegally and has been in Belize for at least ten years can apply for permanent residency; this was amended through Immigration (Amendment) Act No. 1 2014 to allow for other considerations when applying for permanent residency.¹¹⁴

237. The FACA defines a child as a person below the age of eighteen years. This is the definition applied to most laws relevant to children unless otherwise specified. Some laws provide for earlier attainment of majority, for example the Marriage (Amendment) Act of 2005 states that the age of marriage with parental consent is 16 years; The Education Act states the end of compulsory education is 14 years; the Juvenile Offenders Act defines a child as a person under 16 years and a young person as 16 years of age but under 18; the Labour Act describes a child as under 14 years of age and a young person as between the ages of 14 but under 18.

238. In civil law a person must attain the age of eighteen (18) to be recognized as having legal capacity.

239. The Juvenile Offenders' Act deals with the proceedings in a juvenile court where the person charged or to whom the proceedings relate is under 16 or under 18 years of age. Section 3(1-6) lays out the treatment of a child or young person when the court is hearing charges. Hearings for children or young persons are held in a different building or room than in which ordinary settings of the court are held. Persons less than 18 years of age are to be kept from adult offenders except when jointly charged with adult offenders. Only members and officers of the court, attorneys-at-law and others directly connected with the proceedings are allowed to attend Juvenile Court. The Act was amended in 2001 to include penalties for anyone who publishes the name, address, school, photograph or anything likely to lead to the identification of an accused child or young person.

¹¹³ Nationality Act, *Op. Cit.*, §5.

¹¹⁴ Immigration (Amendment) Act, No. 1 of 2014.

240. Section 4 of said Act provides for bail if a child or young person cannot be brought immediately before a court. If bail is not granted, section 5 provides for the child or young person to be put in custody in a “place of detention” which is not a prison.¹¹⁵

241. Section 12 provides for imprisonment of a child or young person who commits a serious crime.¹¹⁶

242. Section 15 states that no child or young person shall be sentenced to imprisonment if he can be suitably dealt with any other way. The amended Act introduces the option to the Court of sentencing an offender to community service. If sentenced to imprisonment the young person is to be kept away from adult prisoners.

243. The Criminal Code of Belize as amended by Act No. 35 of 2005 provides that children cannot be held liable for their criminal acts until they have attained the age of 12 and where they are found to have the appropriate amount of maturity to understand the nature and consequences of their conduct. In circumstances where a child is found to lack the required maturity, the age of criminal liability is extended to 14.

244. In terms of procedures in the court, the Juvenile Offenders Act at Section 8 provides the young person with the right to consult with his parents or guardians on whether he wishes to be tried in another court or at the Juvenile Court. The court also has the obligation to explain in simple language, the substance of the alleged offence to the young person. In deciding how to deal with the child or young person after it has been proven that an offence was committed, the court takes into consideration information regarding his general conduct, home surroundings, school record and medical history in order to ensure the best interest of the child or young person.¹¹⁷

245. Section 15 of said Act presents options to the court when dealing with a child or young person found guilty of a non-serious crime. The Penal Reform (Alternative Sentences) Act, CAP 102 of the Laws of Belize, R.E. 2011 was enacted with young offenders in mind, and empowers the Courts to find more positive ways to deal with a young offender other than sending him to jail. This Act established the Community Rehabilitation Department (CRD) and enlarged the powers of the criminal courts to pass non-custodial community services in certain cases.

246. In an ongoing effort to strengthen the Juvenile Justice System, 2014 saw national consultations being held to facilitate a multi-sectoral discussion of the system. This resulted in recommendations for legal reform. Some of the major recommendations include broadening the legal mandate of the CRD to support broader case management services. The pending legal reform also seeks to hold parents more accountable and would ensure their participation in the rehabilitation process. Other major aspects include repealing of the Certified Institutions Act and Regulations to eliminate the criminalizing of status offenses and addressing them instead, as child protection issues; harmonizing the definition of “child” throughout relevant legislation; establishing provisions for diversion programs and the expansion of alternative sentencing options; requiring all juvenile matters to be held “in camera”; expunging criminal records at age 18 and providing universal and mandatory legal aid for persons under age 18.

247. In March 2015, Cabinet approved that amendments be made to the Juvenile Offenders Act 1936, the Families and Children’s Act 1996 and related ancillary legislation which deal with persons fewer than 18 who come in conflict with the law and who are deemed to be beyond parental control. These amendments, once legislated, will increase the efficacy of these laws in addressing the range of issues arising from children coming in conflict with the law and those at risk.¹¹⁸

¹¹⁵ Another important amendment was to §11 which was the addition of a new subsection which defines the word imprisonment as a custodial sentence in a place of detention.

¹¹⁶ Juvenile Offenders Act, CAP 119 of the Laws of Belize, RE 2011, §12

¹¹⁷ Juvenile Offenders, *Ibid.*, §8, §3, §15

¹¹⁸ The Chief Justice Annual Report 2012-2013 reported a significant increase in the number of juvenile cases amounting to 170 in 2012 compared to 236 in 2013. In 2013 the most common charge was

248. The FACA in Section 33 guarantees that all children are of equal status in the application of the laws of Belize regardless of the marital status of the child's parents. This is extended to include inheritance, as governed by the Administration of Estates Act.

249. Sections 98-132 of the FACA deal with care and protection of children who are deprived of their family environment. Section 116 of said Act allows a social services practitioner, a police officer or an authorized person, who has reasonable grounds to believe that a child is suffering or likely to suffer significant harm, to take a child and place him under emergency protection for 48 hours.

250. The Youth Hostel serves as a residential facility for children who are at-risk, children with uncontrollable behaviour and children who have committed minor criminal offenses between the ages of 12-14. At May 31, 2015 there were 51 residents at the Facility, of whom 31 are females and 27 males. Of these, 21 were juvenile offenders, and 37 were there for uncontrollable behaviour (status offences). For Children in Care (Residential Facility) there were 9 registered facilities as of the end of March 2015. A total of 330 children were in care, with 182 females and 148 males.

251. Section 98 provides for an application to be made for either a: (a) Supervisory Order, (b) Interim Full Care Order, or (c) Custody Order. Section 106 also allows the Court to make an Interim or Care Order placing a child directly into the care of Foster Parents or an Approved Children's Home. The best interest of the child is paramount in all decisions concerning children.

252. Responsibility for the care of children who have been removed from, separated from or otherwise deprived of their family environment is with the DHS within the MHD. This allows for the temporary or permanent care and protection of such children, through the coordination of relative and foster care placements, assessment of adoption applications, or administration of institutions (Residential Care Facilities-RCF).

253. RCFs are over-seen by an Inspector of Social Services Institution (ISSI) and governed by the Social Services Agencies Act Chapter 45 and 45S of the laws of Belize. In all matters requiring a decision with respect to the upbringing of children, the goals of family preservation, family reunification and permanency is paramount in the social services practitioners' thinking and actions when making emergency, temporary or permanent placement decisions. Efforts are made to keep children at home to reduce the trauma to them and to maintain continuity and connections to the family.

254. Children have a right to the best substitute alternative staying place as provided for in the FACA, Section 4(2), including the following placement options: Maintain at Home; Relatives Home in the same location or close proximity where the family lives in order to facilitate parental visitations; Substitute Care/Foster Home (in the same location or close proximity in order to facilitate parental visitations); and finally Residential Care Facility(Children).¹¹⁹

255. In 2013 the MHD enhanced its Inspectorate Services; the ISSI with support of the Policy and Planning Unit has introduced measures for improved oversight and compliance through a more robust inspection process for RCF's.¹²⁰

handling stolen goods with 29 charges, followed by possession of controlled drugs with 26, and burglary with 19.

¹¹⁹ All children who are placed are informed of the reason for their placement and consulted as to their preference. Recognition is made that it is crucial for child(ren)'s adjustment that he/she be allowed to participate in the decision-making process whenever possible (based on their age and developmental stage). Social services practitioners take the time necessary to discuss the fears, concerns, wishes of the child(ren), and to keep them informed of all the decisions made in their best interest. During placement, family visitation is encouraged and child(ren) have the right to remain in contact with the parents, and parents have the right to be notified and allowed contact with the child(ren) as soon as is practical. In addition, and to the extent possible, the Department makes every effort to place siblings together to reduce the further psychological and emotional strain to the children.

¹²⁰ The inspection process now includes both a self-assessment component completed by the licensed operators as a measure of internal quality control and engendering a culture of evidence-based

256. The Labour Act is the principal legislation which protects children and young persons from economic exploitation. Section 54 prohibits a child from entering into a contract of employment and similarly, the Shops Act CAP 231 of the Laws of Belize, R.E. 2011 Section 3 states that no child shall be employed in a shop. A young person may only enter into a contract of employment approved by a labour officer as not being injurious to the moral or physical development of the person. Additionally, the Labour Act at Section 31, states that any person under age 18 may enter into an employment contract, but may not be liable for the payment of any damages in respect of any breach of that contract. There is also provision in the Labour Act at Section 65 for recruiting “persons who do not spontaneously offer their services at the places of employment or at an employment recruitment office’.

257. Part XV Sections 160-176 of the Labour Act generally prohibits the employment of women, children and young people on evening and night work, contravention of which is an offence. However, exemptions can be obtained for apprenticeship or vocational training, or of serious emergency, or between the hours of 7 pm and 11pm where there is a sufficient rest period.

258. The FACA reinforces the provisions of the Labour Act at Section 7 regarding prohibition of employment of children. However, enforcement continues to be a challenge even though the 2012 Child Activity Survey showed that child labour reduced from 6% to 3.2% in 2002. A national child labour policy was completed in 2009 and it is GoB’s policy response to dealing with Child Labour.

Article 25

259. The preamble to the Constitution states that the “will of the people shall form the basis of government in a democratic society in which the government is freely elected by universal adult suffrage and in which all persons may, to the extent of their capacity, play some part in the institutions of national life and thus develop and maintain due respect for lawfully constituted authority...”¹²¹

260. The Elections and Boundaries Commission is an independent Commission under Section 88 of the Constitution to deal with matters related to the holding and conducting of elections to political offices.¹²²

261. Section 5(d) of the Village Council (Elections) Regulations 2009 enables a permanent resident of Belize in possession of a permanent resident card or proof thereof to participate as a voter in a village or community council elections. Section 5 of the Representation of the People Act, (ROPA) CAP 9 of the Laws of Belize, R.E. 2011 lists the persons that are eligible to register to vote, among those being persons over 18 years of age, and a citizen of Belize or a citizen of any Commonwealth country residing in Belize for at least a year.¹²³

262. Section 7(a-d) of the ROPA lists the conditions of suspension and exclusion of the rights protected by Article 25. These include but are not limited to: a person being under age 18, a person having been certified to be insane or otherwise adjudged to be of unsound

practice; as well as an independent assessment by the ISSI. Through comparative analysis, variances are examined, findings discussed with the respective facility’s management and an agreed work plan to close identified gaps signed-off. Effective implementation of the work plan becomes a pre-requisite for renewal of the facility’s license. Plans are underway to conduct a systematic review of all facilities with the aim of strengthening their operating procedures and harmonizing capacity development across the facilities with the explicit aim of improving the quality of care of children whilst in temporary care.

¹²¹ The Constitution, *Op. Cit.*, Preamble

¹²² The Constitution, *Op. Cit.*, §88

¹²³ Village Council (Elections) Regulation, 2009, §5

mind, or is under the sentence of death, or is serving a sentence of imprisonment exceeding twelve months.¹²⁴

263. Section 84(1) of the Constitution empowers the GG to dissolve the National Assembly and “unless sooner dissolved, *shall continue for five years from the date of the first sitting of the House of Representatives after any dissolution and shall then stand dissolved.*”¹²⁵

264. Section 84(2) speaks to dissolution of the House of Representative (HoR) within a maximum of five years, from the day of its first setting. Section 85 provides for the holding of general elections of the HoR after the dissolution of the National Assembly. Since its independence, Belize has adhered to the provisions governing the electoral process contained within the Constitution.

265. The provisions with respect to the right to vote have been applied in a non-discriminatory manner. There is no record of any person contesting the application of these provisions. However as a part of the process of registration of voters, a registered voter can object to an applicant on a supplementary list and to a registered voter on a divisional register.

266. The ROPA makes provision for every bona fide citizen, to exercise his/her right to vote, despite illiteracy, language barriers, and poverty; to first become registered as a voter and subsequently for exercising his/her right to vote. Regarding illiteracy, Section 16 (2) Re- Registration Rules Part I make provision for voting by persons who cannot read and furthermore, Part I section X (Preliminary) “signature: is defined as “includes any mark or thumb impression”.¹²⁶

267. Regarding any language barriers, as an administrative practice, where election officers are not fluent in the language of a particular applicant, assistance can be sought from the public in translating the language of the applicant in order to facilitate his or her right to vote. Additionally, posters and advertisement on Election Day are translated into the Spanish language.

268. With respect to issues such as poverty, or impediment to the freedom of movement of voters, it has been noted that people move around, principally for economic reasons and the ROPA at Section 59 (1) makes provision for the freedom of movement of voters, by including transfer of electors from one electoral division to another.¹²⁷ This occurs annually during the months of July and August, where an elector who has changed his residence from one electoral division to another, shall after he has reside for a minimum period of two months at his new address, give written notice to the Registering Officer of the division in which he now resides. Provision is also made for Physically Incapacitated Voter through Statutory Instrument No. 65 of 2004.¹²⁸

269. The legal provisions establishing the conditions for holding elective public office are mentioned in the ROPA sections 56(2) through 59(2), Part VI. The Constitution states that the qualification for a candidate for holding public office (Members of the HoR) should be (a) A citizen of Belize, eighteen years or upwards; and (b) has resided in Belize for at least one year immediately before the date of his nomination for election.¹²⁹ Section 3(2) of the Election Rules provides that every candidate shall be nominated in writing on one nomination paper signed by six persons whose names appear on the register of voters for the electoral division. Section 8 says that a person whose name is on the register of electors can object to the candidate and the returning officer decides on the validity of the objection.¹³⁰

¹²⁴ Representation of the People Act, CAP 9 of the Laws of Belize, RE 2011, §7

¹²⁵ The Constitution, *Op. Cit.* §84-§85

¹²⁶ The Representation Act, *Op.Cit.*, §16

¹²⁷ The Representation Act, *Op.Cit.*, §59

¹²⁸ Statutory Instrument No. 65 of 2004

¹²⁹ The Constitution, *Op. Cit.*, §56-§57, §59

¹³⁰ The Representation Act, *Op. Cit.*, §3, §8

270. Candidates holding public offices can be disqualified for a variety of reasons listed in the Constitution. This list includes: allegiance, obedience or adherence to a foreign power or state; bankrupt, having been adjudged or otherwise declared bankrupt; is a person certified to be insane or otherwise adjudged to be of unsound mind; and is under sentence of death imposed on him by a court in any part of the Commonwealth or is serving a sentence of imprisonment exceeding twelve months.

271. The Recall of Elected Representatives Act No 20 of 2010 provides for a member of the HoR to be recalled before the expiry of their normal term of office. This process is initiated by a petition presented to the GG signed by at least 30% of the registered voters for a particular Electoral Division. Sections 3-6 of said Act outline the process involved in the recall.¹³¹

Article 27

272. According to the 2010 Census, the Maya (includes Q'eqchi', Mopan and Yacatek) and the Garifuna are the two groups indigenous to Belize. There are several other ethnic groups which can be considered statistical minorities: Asians (Japanese, Chinese and Taiwanese) 3,316 (1%); Caucasian/white, 4,015 (1.2%); East Indian, 12,452 (3.9%); and Mennonite 11,574 (3.6%).

273. The preamble of the Constitution at (e) says:

Whereas the people of Belize ... (e) require policies of state which protect and safeguard the unity, freedom, sovereignty and territorial integrity of Belize; which eliminate economic and social privilege and disparity among the citizens of Belize whether by race, ethnicity, colour, creed, disability or sex; which ensures gender equality; which protect the rights of the individual to life, liberty, basic education, basic health, the right to vote in elections, the right to work and the pursuit of happiness; which protect the identity, dignity and social and cultural values of Belizeans, including Belize's indigenous peoples; which preserve the right of the individual to the ownership of private property and the right to operate private businesses; which prohibit the exploitation of man by man or by the state; which ensure a just system of social security and welfare; which protect the environment; which promote international peace, security and co-operation among nations, the establishment of a just and equitable international economic and social order in the world with respect for international law and treaty obligations in the dealings among nations; ...

274. Although no specific mention is made of culture, Section 3 of the Constitution reaffirms the right of every Belizean to the fundamental rights and freedoms of the individual regardless of race, place or origin, political opinions, creed, or sex. Furthermore, section 16 (1) states “*Subject to the provisions of subsections (4), (5) and (7) of this section, no law shall make any provision that is discriminatory either of itself or in its effect.*”

275. There are no special measures for any minority groups since racial discrimination is not a major challenge in Belize and therefore equal rights are generally afforded to everyone. Ethnic minorities and indigenous groups are free to speak their native language and practice their culture without limitation. However, English is by law the official language of Belize.

276. The Alcalde system is part of the local government structure of Belize. It focuses on specific and limited judicial matters within a given judicial district. This form of local governance is administered through the inferior courts in accordance with the Inferior Courts Act. The Alcaldes are effectively local magistrates with statutory jurisdiction operating at the village and community level. This inferior court is charged mainly with maintaining law and order and its Alcaldes can therefore adjudicate disputes and punish

¹³¹ Recall of Elected Representatives, Act 20 of 2010, §3.

misdeeds and petty crime that fall within their jurisdiction. The GoB appoints Alcaldes every two years. They differ from the chairperson of the village in that they have an adjudicative role for which they are paid a small stipend by the government.

277. While mainly Mayan communities, including the Mopan and Q'eqchi' groups, in southern Belize practice this form of local governance, the Alcalde jurisdiction is not limited to homogeneous Maya communities. There are instances where immigrant communities have established this Alcalde System as a way of governance, but they must be vested with this authority by the Judiciary.

278. The authority of the Alcalde also extends to customary practices. They, for example organize fajinas. The fajina is a system in which men over 16 years of age are required to participate in the cleaning of the public areas such as the school ground and the cemetery. The responsibilities vary from village to village as in some villages it is limited to maintenance of the cemetery grounds. The Alcalde can charge a fine if the male residents fail to participate in the fajina. Additionally, with the approval of the community the Alcalde can give permission for a new person to settle in their respective community. The Alcaldes also manage communal land and act as school officers.

279. In the case of the **Maya Leaders Alliance Et Al and the Attorney General of Belize** of the CCJ Appeal No BZCV2014/02 in its Appellate Jurisdiction, the GoB consented to an order which acknowledges that Maya customary land tenure exists in the Maya villages in the Toledo district and that such customary land tenure gives rise to collective and individual property rights. However, this recognition is subjected to the Belize Constitution and the constitutional authority of the GoB over all lands in Belize. It represents a new beginning and an opportunity to create an effective mechanism to identify and protect the property and other rights arising from Maya customary land tenure in accordance with Maya customary law and land tenure practices.

280. As a part of the CCJ Consent Order, the GoB is required to consult with the Maya people before it grants permission for access to natural resources within areas demarcated as communally held lands. On January 12, 2016 the GoB appointed the Toledo Maya Land Rights Commission which is tasked with implementation of the Consent Order. The Attorney General was assigned responsibility for the Commission.

281. There are no legal provisions prohibiting any member of a minority group from participating in central and local government. The process as defined above is open to all Belizeans and one has only to ensure that all criteria are met. The members of minority groups in central and local government and elective office are not easy to determine in Belize due to the country's unique characteristic of being a melting-pot of cultures; with a large number of the country's population being multiracial. However, minorities do occupy seats in the House of Representatives and a similar diversity can be found in the: 2 city councils, 7 town councils and a hundred and eighty 180 village councils found throughout the country.
