

Constitutional and Legal Framework within which the Covenant is implemented (art 2)

1. Belize ratified the International Covenant on Civil and Political Rights on 10th June, 1996. Enabling legislation has not been passed with respect to the Covenant. This notwithstanding, the provisions of the Covenant can still be invoked before Belize's Courts based on the general principles of Treaty Law.

2. **Article 12 (2):** *"Everyone shall be free to leave any country, including his own."*

The Government of Belize has reserved the right not to apply paragraph 2 of Article 12 in view of the national interests justifying the statutory provision requiring persons intending to travel abroad to furnish Tax Clearance Certificates. The legal requirements for a "Tax Clearance Certificate" are set out in the Income and Business Tax Act 55 of the Laws of Belize, Revised Edition, 2003.

3. Belize's reservation to paragraph 2 of Article 12 is consistent with paragraph 3 of Article 12 of the Covenant which permits restrictions established by law and are "consistent with the other rights recognized in the present Covenant". 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.

4. **Article 14 (3)(d) :** *"In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees in full equality"*

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his choosing; to be informed, if he does not have legal assistance, of his right; and to have legal assistance assigned to him in any case where the interest of the justice so requires; and without payment by him in any case if he does not have sufficient means to pay for it."

5. The Government of Belize has reserved the right not to apply in full the guarantee of free legal assistance in accordance with paragraph 3(d) of Article 14, since, while it accepts the principle contained in that paragraph and at present applies it in certain defined areas, the problems of implementation are such that full application cannot be guaranteed at present.

6. The Constitution of Belize is the supreme law of the land (s. 2 (1)) and it guarantees, *inter alia*, that a person is entitled to equal and fair representation (s.6 (1)). The section provides that, *"All persons are equal before the law and are entitled without any discrimination to the equal protection of the law."*

7. The Constitution further guarantees that every person who is charged with a criminal offense must be tried in his presence unless he conducts himself in a manner which renders continuance of the proceedings impracticable. *"Provided that the trial may take place in his absence in any case in which it is so provided by a law under which he is entitled to adequate*

notice of the charge and the date, time and place of the trial and to a reasonable opportunity of appearing before the Court" (s6 (3)).

8. The Constitution also secures the right for a person to, *inter alia*, be given adequate time and facilities for the preparation of his own defence (s.6 (3) (c)), and to defend himself in person or through legal assistance of his choosing. Section 6(3) (d) of the Constitution provides: "*Every person who is charged with a criminal offence ... (d) shall be permitted to defend himself before the Court in person or, at his own expense, by legal practitioner of his own choice*".

9. The above notwithstanding, free legal representation is afforded to capital cases of murder as specified in (S.194) (1), of the Indictable Procedure Act, Cap 96 of the Laws of Belize, R.E. 2000-2003, and is applied based on existing resources.

-10. **Article 14 (6):**

"When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such a conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time, is wholly or partly attributable to him."

The Government of Belize recognizes and accepts the principle of compensation for wrongful imprisonment, but not for conviction for a criminal offence after due process in a Court of Law which said conviction may subsequently be reversed on appeal or by pardon.

11. Fundamental rights and freedoms are enshrined in the Constitution of Belize in Part II Articles 3-19. Section 20 defines the process through which a person who feels that these rights are infringed in relation to him, may make application to the Supreme Court for redress which will determine the matter. The Supreme Court may:

20 (1) *.....and may make such declarations and orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of sections 3- 19 inclusive of this Constitution.*

A person may seek further redress by application to the Court of Appeal.

20 (4) *any person aggrieved by any determination of the Supreme Court under this section may appeal therefrom to the Court of Appeal.*

12. The body of fundamental rights protected by the ICCPR is, by and large, the same as those enshrined in the Belize Constitution, namely:

- (a) *Life, liberty, security of the person, and equal protection of the law;*
- (b) *Freedom of conscience, of expression and of assembly and association;*
- (c) *Protection for family life, personal privacy, the privacy of a person's home, and other property and recognition of his human dignity; and*
- (d) *Protection from arbitrary deprivation of property.*

These rights are specifically elaborated on in sections 4 through 17 of the Constitution.

13. While there has been no specific training of judges, lawyers and law enforcement personnel on the Covenant, these parties by their professional oath, swear to uphold the Constitution and enforcement of the constitutional rights and freedoms of persons in Belize. Lawyers who specialize in Constitutional law will, perforce, protect clients' constitutional rights.

14. The Supreme Court of Belize is the institution established by the Constitution of Belize to vindicate the rights of persons who claim a violation of their human rights by any public entity clothed with coercive powers. Thus, pursuant to Section 20 (i) of the Constitution, "*If any person alleges that any of the provisions of Section 3 to 19 inclusive of this Constitution has been, is being or is likely to be contravened in relation to him (or, in the case of a person detained, if any other person alleges such a contravention in relation to the detained person), then without prejudice to any other action with respect to the same matter which is lawfully available, that person, (or that other person) may apply to the Supreme Court for redress.*"

15. The Office of the Ombudsman was created on the 31st day of March 1999. The post was filled until December, 2011, and after remaining vacant for 12 months, was filled when a suitably qualified person was found in the person of Mr. Lionel Arzu. He was appointed Ombudsman in December 2012.

Non-discrimination, equality between men and women (arts.2, para.1, 3 and 26)

16. In 2002, Belize developed its first National Gender Policy (NGP), constituting thus the most important framework to promote and protect women's rights in the country. Gender issues presented in a Situation Analysis of Gender in Belize (2002) and concluding comments of the Committee on the Elimination of Discrimination against Women (CEDAW) (1999) formed the basis for actions outlined in the NGP (2002). The Policy outlined five major policy priorities for gender empowerment in Belize. At the end of 2008, the National Women's Commission (NWC) decided to review and validate this National Gender Policy to ensure: a.) its continued relevance in the Belizean context and b.) its responsiveness to the CEDAW Committee's concluding comments (2007).

17. The revision of the National Gender Policy was based on an updated situational analysis of women in Belize as well as other pertinent documents such as the Convention on the Elimination of All Forms of Discrimination against Women, the Beijing Platform for Action, the Outcomes

Document, the Commonwealth Plan of Action and the Caribbean Community Regional Plan of Action.

Among the major commitments of the revised National Gender Policy are:

- Develop a national strategy for increasing women's political participation at all levels, including their participation as candidates in national and municipal elections and appointment to leadership positions within public and private institutions. This national strategy will consider women's productive and reproductive roles.
- Even though special temporary measures are foreseen, an advocacy strategy needs to be developed in order to ensure their full acceptance and implementation to meet specific targets for increased women's political participation on an equal basis with men.
- Provide adequate human and financial resources for the effective gender responsive implementation of the National Policy on Local Governance. Special focus will be placed on strategies that aim to achieve the goal of greater parity with men in elected and appointed positions.
- Develop and monitor the implementation of a legal framework and support structure that promotes the more equitable sharing of parental duties among women and men as a strategy for enhancing women's participation in political life and leadership positions in private and public institutions.
- Strengthen national institutions charged with responsibility for the implementation of gender programming so that they can efficiently and effectively coordinate, monitor and evaluate the implementation of this National Gender Policy. This includes the National Women's Commission, the Women's Department and any related Ministry or Department that may be deemed critical to the successful implementation of this Policy.
- Develop a clear multi-sectoral strategy for implementing gender budgeting within the new public sector three-year budgeting cycle.

18. A comprehensive Gender Based Violence Plan of Action (NGBVAP) was developed through an inclusive consultative process for the years 2010-2013. It outlines the problem of gender-based violence, elaborates its linkages to poverty, reproductive health, HIV/AIDS and discusses its impact on the nation's development by complementing the policies addressed in key national documents including *inter alia*: The National Plan of Action for Children and Adolescents in Belize 2004-2015, Belize's National Gender Policy 2002, the Sexual and Reproductive Health Policy and the National HIV/AIDS Strategic Plan and Policy. Recognizing the need for a coordinated, cross-sectoral integrated approach to address cultural, social and economic obstacles so as to effectively tackle gender-based violence in Belize, the Plan is cross sectoral, encompassing law enforcement, health, justice administration, housing, community advocacy and education. It assigns to each line ministry its own responsibilities, timeline and budget requirements that were agreed to during consultations. The NGBVAP aims

to ensure that Belize moves towards the goals and objectives of the Millennium Development Goals, the Convention on the Elimination of all forms of Discrimination Against Women, the Beijing Platform for Action, the Commonwealth Plan of Action and the CARICOM Regional Plan of Action. It is designed to also serve as a basis for advocacy work for a vigorous national effort to halt gender-based violence in all its forms in Belize, and as a tool to assist policy and decision makers to contribute to the achievement of the national and international goals.

19. The Belize Gender Info is an initiative developed by the National Women's Commission to ensure use of appropriately disaggregated data for public policy design, implementation and monitoring, while ensuring that Belize keeps up-to-date with its international commitments; and in particular, the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). Additionally, the database will also serve as a monitoring tool for evaluating the progress on the implementation of the revised National Gender Policy, which aims to advance the achievement of de jure and de facto gender equality and equity in Belize. Among the five priority areas of the revised Gender Policy, Power & Decision-Making and Education have been selected as initial building blocks for the database.

Non-discrimination, equality between men and women (arts 2, para. 1, 3, 26)

20. The application of the laws of Belize are on the basis of non-discrimination as specified in Sections 3 and 16 of the Constitution.

§3. Whereas every person in Belize is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely-

(a) life, liberty, security of the person, and the protection of the law;

(b) freedom of conscience, of expression and of assembly and association;

(c) protection for his family life, his personal privacy, the privacy of his home and other property and recognition of his human dignity; and

(d) protection from arbitrary deprivation of property, the provisions of this Part shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any person does not prejudice the rights and freedoms of others or the public interest.

§16. -(1) 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.

(2) Subject to the provisions of subsections (6), (7) and (8) of this section, no person shall be treated in a discriminatory manner by any person or authority.

(3) In this section, the expression "discriminatory" means 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 whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

(4) Subsection (1) of this section shall not apply to any law so far as that law makes provision-

(a) for the appropriation of public revenues or other public funds;

(b) with respect to persons who are not citizens of Belize;

(c) for the application, in the case of persons of any such description as is mentioned in subsection (3) of this section (or of persons connected with such persons), of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other like matters which is the personal law of persons of that description; or

(d) whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any disability or restriction or may be accorded any privilege or advantage that, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable.

(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that it makes provision with respect to standards or qualifications (not being standards or qualifications specifically relating to sex, race, place of origin, political opinions, colour or creed) to be required of any person who is appointed to or to act in any office or employment.

(6) Subsection (2) of this section shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in subsection (4) or subsection (5) of this section.

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any restriction on the rights and freedoms guaranteed by sections 9, 10, 11, 12 and 13 of this Constitution, being such a restriction as is authorised by section 9(2), paragraph (a), (b) or (h) of section 10(3), section 11(5), section 12(2) or section 13(2), as the case may be.

(8) Nothing contained in subsection (2) of this section shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.

21. The Constitution makes no specific reference to sexual orientation. At present, the Belize Police Department (BDP) information system does not include sexual orientation as a category and there are no official statistics for complaints based on sexual orientation. The Belize Police Department (BPD) and security forces maintain their long-standing mission and values which are intended for the benefit of all Belizeans, without distinction.

22. In respect of the decriminalization of homosexual behaviour between male persons, in Supreme Court Claim No. 668 of 2010, with its claimants, Caleb Orozco and the United Advocacy Group v the Attorney General Office, the claimants are seeking a Declaration that Section 53 of the Criminal Code is unconstitutional. The Commonwealth Lawyers Association, the Human Dignity Trust and the International Commission of Jurists have successfully obtained the Court's permission to join the case as Interested Parties. This status allows them to make submissions to the Court. The Government has sought to maintain a neutral position, not seeking to uphold the section or to have it struck down. The case is pending for hearing in the Supreme Court in May 2013

23. In addition to the aforementioned case, the Caribbean Court of Justice is presently seized of the matter of determining whether section 5(1)(e) of the Immigration Act, Chapter 156, Laws of Belize, enacted on 1 January 1958, is constitutional. In this regard, section 5 (1) (e) presently lists "*any prostitute or homosexual or any person who may be living on or receiving or may have been living on or receiving the proceeds of prostitution or homosexual behavior*" as a prohibited immigrant.

24. Consecutive governments have made commitments to integrate persons with disabilities into society and to provide support for their treatment. The commitment has also included a pledge to increase public awareness of their rights and needs and to recognize persons with disabilities as equal citizens. This commitment was reaffirmed with the signing and ratifying of the UN Convention on the Rights of Persons with Disabilities in May of 2011. Accepting this Convention represents a major milestone in the formulation of policies for the inclusion and promotion of the rights of persons with disabilities and provides added momentum for the development of specific legislation for persons with disabilities.

25. Currently, there is not a formal system in place to capture the Belizean population of persons with disabilities, and it is estimated that there are upwards of 35,000 persons with disabilities; this represents approximately 11 % of Belize's population.

26. Although there is no specific law on persons with disabilities, several key pieces of legislation contain provisions relating to the treatment of persons with disabilities such as the Belize Constitution, the Domestic Violence Act, the Families and Children Act and the Education Act. Each separately addresses issues relating to persons with disabilities, for example, the Education Act, Article 24 (5) says that "the education system shall ensure equitable access ...at

all levels, and shall cater to the special needs of challenged pupils."

27. The Ministry of Human Development, Social Transformation and Poverty Alleviation has direct responsibility for mainstreaming the rights of persons with disabilities into the national policy framework. The more widely known NGOs directly lending support to the Ministry's work includes the Community Agency for Rehabilitation and Education of Persons with Disabilities in Belize (CARE), along with the Belize Council for the Visually Impaired (BCVI) and the Lifeline Foundation.

28. The Belize Council for the Visually Impaired (BCVI) was established in 1981 to improve the quality of life for individuals with visual impairments and reduce the prevalence of blindness through appropriate eye care. CARE-Belize was established in 2002 as a direct response to the need of providing community-based rehabilitation services for persons with physical disabilities in Belize. The Lifeline Foundation established in 2006 by Mrs Kim Simplis-Barrow, wife of the Prime Minister, is also an NGO. The Foundation seeks to provide aid to malnourished children and children orphaned by HIV/AIDS in Belize by supplying food, medical care and educational materials. In addition to providing immediate aid to children throughout the country, Lifeline Foundation is working to create lasting change by establishing long-term programs, such as food programs and HIV/AIDS prevention. Mrs. Barrow is also pursuing the implementation of the Inspiration Centre in collaboration with the Ministries of Human Development, Works, Health, and Education. This project will contribute to the care and protection of children and to the development of services particularly for the disability sector in line with UN international standards. Through the provision of a range of group work activities, individual stimulation, medical care and support, barrier-free outdoor trips, corporate-sponsored environmental service programmes, and leadership training, the Centre will offer a safe space for children and adolescents to interact, to gain self esteem and skills and will address the disparity between non-disabled and disabled children in accessing community-based recreation programmes.

29. The area of special education has received the most attention in Belize's efforts to eliminate sources of exclusion for children with special learning needs. The Education Act supports a more comprehensive view of inclusion specifically in Article 24 (5). To this end, the National Resource Centre for Inclusive Education (NaRCIE) was established in 1991, and functions as a department within the Ministry of Education which has as its primary mandate, ensuring that special learning needs of students are properly addressed within the existing education system. This task demands that NaRCIE collaborates with other entities to consolidate the principle of inclusive education in the education system. NaRCIE seeks to institute programmes which will strengthen the ability to address the needs of a growing number of students with varying learning needs in pre-school, primary and secondary schools. The NaRCIE continues to provide technical and professional support to two special schools and six centres as well as to several regular schools.

States of Emergency (art 4)

30. The grounds on which a state of emergency can be declared are specified in S.18 of the Belize Constitution and are:

- a) Belize is engaged in war;
- b) the Governor-General by proclamation declares that a state of public emergency exists;
- c) the National Assembly declares, by Resolution passed by a two-third majority, that democratic institutions in Belize are threatened by subversion. A Resolution lasts for 2 months at a time.

The Constitution of Belize Section 18 (10) states that:

"Nothing contained in or done under the authority of any law (including any regulations made under subsection (9) of this section) shall be held to be inconsistent with or in contravention of Section (5, 6, 8, 9, 10, 12, 13, 14, 15, 16 or 17) of this constitution to the extent that the law in question makes in relation to any period of public emergency provisions, or authorizes the doing during any such period of anything, that is reasonably justifiable in the circumstances of any situation arising or existing during the period for the purpose of dealing with that situation."

31. However, as S.18 (10) does not include section 4- protection of right to life, section 7- protection from inhuman treatment, and section 11-freedom of conscience, these constitutional rights cannot be derogated from during a public emergency. Further, S.19 which 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 from among persons who are legal practitioners.

32. Money Laundering (Prevention) Act Chapter 104 of the Laws of Belize prohibits terrorism, creates offences, creates anti-terrorism supervision measures which include freezing of funds, providing disclosure to foreign institution and agencies, reporting requirements by customers to verify their identity, reporting of suspicious transactions by suspicious entities.

33. These measures may impinge on Article 19(2) of the Covenant to the extent that the enjoyment of freedom of expression is curtailed as regards a person's banking transactions. When a person's personal business is subject to an evaluation by a bank official as to whether it constitutes a "suspicious transaction", that person's right to carry on his business is fettered.

Right to life (art.6)

34. For the year 2011, there was a documented decrease in the number of new HIV infections, with a total of 226 new infections for the year; this represents a further 7.4% decrease when compared to 2010 data. For three consecutive years (2009-2011), there has been a noted decrease in the number of confirmed HIV cases. This decreasing trend also reflects better data collection and processing, and elimination of duplication. New HIV infections continue to affect all age groups, albeit, the majority of the new cases continue to be in the younger age groups,

particularly those between 20 to 34 years. The male to female ratio has undergone changes over the last years and the previous notion of a 'feminization' of the disease is no longer applicable to the Belize epidemic as there is a gradual transition towards a higher ratio for males. It is evident that males had an overall higher number of new HIV infections despite the fact that fewer tests were conducted within this population.

In 2012, there were 81 HIV related deaths 51 of those deaths were in males. In reference to new infections for 2012, there were 251 new HIV infections, 151 of those were males.

35. In relation to advancing the Sexual Reproductive Health Policy the Ministry of Health has re-introduced access to contraceptive methods [IUD, condom male and female, oral and injectable contraceptive] targeting approximately 6,000 women in reproductive age [10% of total women in reproductive age]. The Ministry has also seen an increase in the number of cervical cancer screening and treatment services. All health regions in Belize have access to coloscopy services. Pap smears has increased from 2,000 to almost 6,000. Pap smears are offered during campaigns in hard to reach villages. In addition screening for prostate cancer is one of the performance indicators measured by facilities procuring services for the National Health Insurance.

36. A Sexual and Reproductive Health Committee comprising of key organizations was formed to monitor the Sexual and Reproductive Health Policy. Sub-committees were formed to address the different components of the policy. Since the development of the policy, there has been an expansion of Sexual Reproductive Health (SRH) services through the Ministry of Health. Public Health Clinics now free contraceptives especially to HIV positive women and women of multi-parity, increased reach with pap-smear services to include other women, not only post-natal women, integrated Sexually Transmitted Infection, including HIV screening and management. Under the monitoring of the policy there has been a change of the age of consent from 14 to 16 years.

37. The Belize Family Life Association (BFLA) which is a non- governmental organization which addresses sexual and reproductive health issues has revised their Peer Education Curriculum to be more inclusive of sexual rights, comprehensive sexuality education, responsible sexual decision making, pregnancy, contraception and abortion. BFLA also created youth friendly spaces/clinics from which sexual and reproductive health services are provided to persons less than 25 years of age. The staff is trained in providing youth friendly sexual and reproductive health services. BFLA carried out programs that empower young persons to advocate for the sexual and reproductive rights. They have improved their package of SRH services to include STI/HIV services and have male integration (clinics more male friendly) providing male specific SRH services.

38. BFLA also takes a Sexual Rights approach to the provision of services so that SRH services are provided to a sexually diverse population. They also advocate for the advancement of the sexual and reproductive rights agenda, including holding the government accountable to commitments in the Policy and other national commitments made including the Mexico Ministerial Declaration on Comprehensive Sexuality Education. They also partner with other

NGOs to conduct community based education linking sexual and reproductive rights within the context of gender-based violence.

39. The Constitution of Belize S. 4(1) states "*Persons shall not be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offense under any law of which he has been convicted.*" Chapter 101, Criminal Code Act of the Laws of Belize Section 106 creates the offence of murder which is punishable by the death penalty. The Criminal Code classifies murder into two classes Class A and Class B.

Class A- Any murder committed in the course of theft, by shooting, resisting lawful arrest, killing a police officer or prison officer, related to illegal drugs or gang activity;

Class B- Any murder which is not Class A; a Judge may take into consideration extenuating circumstances and a plea for mercy. The sentence may be life imprisonment.

40. Up until 2002, a judge had discretion to impose life imprisonment instead of the death penalty in the case of a Class B murder, but not in the case of Class A. In 2002, the Privy Council ruled in *Reyes v. the Queen* that to deny a sentencing discretion to a Judge in respect of a Class A is unconstitutional. As a matter of practice, the death penalty has rarely been imposed since 2002. The Privy Council decided in *Pratt v Morgan* that it is cruel and inhumane punishment to execute a person who has been on death row for five or more years. At the moment only one person is on death row in Belize and has been there for more than five years. As a result, that person cannot be executed. In fact, the last public execution was conducted in 1986.

Application of the Death Penalty is reserved under Article 6(3) of the Covenant and similar provisions are in the Criminal Code Act of Belize.

41. The last amendment to the Constitution was 2011 which provides an interpretation of what "other law" means under the existing Section 2 of the Constitution which gives the constitution the status of the Supreme Law of Belize. Section 2, as amended in 2011 (Eighth Constitutional Amendment Act now reads as follows:

"2(1) This Constitution is the supreme Law of Belize and if any other law is inconsistent with this Constitution that other law shall, to the extent of the inconsistency, be void."

"(2) The words, "other law" appearing in sub-section 1 above does not include a law to alter any of the provision of then Constitution which is passed by National Assembly in conformity with S.69 of the Constitution."

The validity of the new sub-section 2 is *sub judice* pursuant to the Caribbean Court of Justice, Case No. CV001 of 2013, *British Caribbean Bank Ltd v Attorney General of Belize*.

42. The Laws of Belize and the Constitution of Belize do not discriminate in the dispensation

of justice. The Constitution in S.6 (1) states:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law.

43. The Government of Belize has on several occasions expressed its concern at the increasing illegal encroachment of foreign nationals in the Belizean territory who engage in illegal activities. These concerns were formally lodged with the OAS and Guatemalan Government.

44. In 2012, there were three reported incidents of death of foreign nationals, all Guatemalans, which involved the Belize Defense Force. Each of these three cases was fully and properly investigated as per normal procedures in such cases. Upon reviewing the case files, the Director of the Public Prosecutions determined that the facts could not prove criminal charges against any of the officers allegedly involved. This notwithstanding, the Government of Belize undertook to provide compassionate grants to assist the families of the deceased. This was done with the assistance and mediation of the OAS.

Prohibition against torture and cruel, inhumane or degrading treatment or punishment, right to liberty and security of persons, treatment of persons deprived of their liberty, fair trials (arts. 7, 9, 10 and 14)

45. In 1999, the Domestic Violence Unit, subsequently renamed the Family Violence Unit, was established within the Police Department in Belize City. The mandate is to investigate all types of violence between family members- physical, verbal, psychological, emotional with the intention to try to keep the family unit together; where this is not possible cases are referred to the relevant agencies. In Belize City the unit is staffed by 15 Police Officers and one secretary. Belize Rural has one officer each, in Hattieville, Caye Caulker and San Pedro, who specifically deal with Domestic Violence Cases. There are two officers in Ladyville that address this issue. There are also officers in each district who specifically deal with domestic family violence.

46. The Family Violence Unit collaborates with the Women's Department to implement activities and conduct sensitization sessions during the Annual 16 Days of Activisms for Gender Based Violence against Women and Children observed during the month of December. The Family Violence Unit also prepares an annual calendar of activities to raise awareness on the issue of domestic violence and gender based violence which focuses on the role of the police officer and the Domestic Violence Act of 2007.

47. In September 2008 the Ministry of Health inaugurated the Belize Health Information System - BHIS. The BHIS is a fully integrated, comprehensive health information system designed to improve individual health outcomes and public health performance, and optimize resource utilization. It allows for patient-based data to be made available to authorized users anywhere in the country almost as soon as they are entered in the system. It is a very innovative approach that has been exported to neighboring countries. The Ministry is in the process of integrating the Gender Based Violence Surveillance System set of data within the BHIS. Most of the sex disaggregated data that has been collected and analyzed during the current reporting

period has been used to support information provided in the different areas of this report.

48. The Gender Based Violence Surveillance is currently a component of the National Health Information System (NHIS). The system uses a computerized menu-driven application which registers, stores, processes and produces information on health at the national and local levels. The NHIS is an integrated decentralized information system which operates as a network with external locations coordinated by a central unit. Six District Health Information Units (DHIU) operate as local networks.

49. The module is used by multiple units in and outside of the Ministry of Health, as well as the social sector such as the Police Department, Women's Department, Human Services Department and NGOs like Haven House, one of the two shelters in the country. All sectors/units/NGO's and other organizations report on cases of GBV utilizing a standardized form which is collected and sent to each District Health Information Unit, MOH. District Health Information Units compile data and send information weekly via e-mail or CDs to the Epidemiology Unit in Belmopan. The District Health Information Unit also produces standardized reports at the local levels. The system has been widely recognized as very efficient and used as a model in the region. On a quarterly basis a set of tables with agreed cross match variables are prepared and sent to data producers and users for their use in programming and planning as well for monitoring and evaluation reports.

50. The Professional Standards Branch *formerly Internal Affairs* (of the Police Department) is governed by Section 24 (i) Police Act, Chapter 138, the Laws of Belize. This Act provides for aggrieved citizens to take action against police officers who may have committed any action against them and allows for the citizen to lodge a complaint and require that the conduct of any offending officer be investigated.

There is a range of punishments, including but not limited to:

- a) caution, reprimand or severe reprimand;
- b) fine not exceeding two hundred dollars;
- c) reduction of rank or grade;
- d) extra duties for a period not exceeding twenty-eight days;
- e) confinement to barracks for a period not exceeding twenty-eight days, such confinement to involve the performance of ordinary duties as well as fatigue duties;
- f) stoppage of increments;
- g) subject to section 26, forfeiture of pay for a period not exceeding one month;
- h) surcharge for damage to property or award of compensation in favour of the injured

party;

i) dismissal.

51. The Professional Standard Branch main office is located in Belmopan, and there are four (4) officers in charge of duty and discipline in Belmopan, four (4) officers in Belize City, and one (1) in each of the other districts. Serious offences such as allegations of murder, extortion and theft are investigated by the main office in Belmopan. In the instances where complainants pursue legal action against the BPD through the Civil Courts, the Solicitor General's Office represents the BPD in court. Normally, when it is clear that the officer is at fault, there is an out of court settlement which is not publicly disclosed.

52. In 2012 there were a total of 239 reports made against police officers for various offences ranging from unprofessional conduct to sudden death (where someone dies while in police custody). Of these 239, there were: 57 reports of common assault, 14 harm, 7 wounding, 12 aggravated assault, 1 alleged rape, 1 grievous harm, 2 cases of sudden death, 43 Acts to the Prejudice of Good Order and Discipline (APGOD), 16 theft, 9 extortion, 2 unprofessional conduct, 23 cases of neglect of duty, 9 unlawful detention, 1 possession of drugs and 42 other.

53. According to Officials, there was a slight increase of reports made against Police Officers in 2012, compared to 2011. This was attributed to the Belizean public's increasing awareness of their rights and the fact that their allegations are investigated by Internal Affairs. Also, 2012 was the first year that statistical figures, disaggregated by month/district/offence, were made available; previously only the total figure was recorded.

54. All 239 cases were investigated; however, the action taken varied depending on the action the complainant requested. In many cases persons did not request criminal prosecution but requested that the officer under investigation be spoken to, which is also a form of reprimand. In addition, the incident would be placed on the officer's personal file. In 2012, thirty-three (33) officers were placed on interdiction of which thirty-one (31) were criminally charged. There were also five cases (2012) where the complainant requested compensation. Usually, compensation is either deducted from the officer's monthly salary or paid forthwith in cash. The compensation in the latter cases averaged Bz \$500 dollars.

55. With regard to rehabilitation for victims, there are currently no provisions for such services. However, police officers receive trainings from time to time which sensitize them to the human rights of persons and also the Standard Operating Procedures (SOP) of the BPD. These standardized trainings are intended to educate police officers on how to fulfill their duty, within the limits of the law.

56. Belize's extradition framework is regulated by the Extradition Act of Belize Chapter 112 of the Laws of Belize, Revised Edition, 2003 and several bilateral treaties. Belize has entered into extradition treaties with US, Mexico, and Guatemala. Extradition is not granted for political and military offenses. In 1991 Belize acceded to the 1951 Convention Relating to the Status of Refugees and to its 1967 Protocol. In 1991 Belize passed the Refugees Act (Chapter 165 of the

Laws of Belize, R.E. 2000 - 2003) to provide for refugee protection in Belize. That Act gave the Convention and the Protocol the status of law in Belize.

57. The Education and Training Act 2010, which came into effect in May 2010, prohibits corporal punishment in schools. There has not been any initiative to repeal the provision in the Criminal Code which allows corporal punishment. The Ministry of Education, Youth and Sports (MOEYS) has developed a plan to promote alternative discipline in schools. A Positive Discipline Manual has been developed to this end.

58. With regards to the allegations of excessive use of force by the Gang Suppression Unit, at the funeral of an alleged gang affiliate, complaints were made to the media; however, no official complaint was made. An Independent Commission of Inquiry was established to verify the allegation of police brutality against residents of Taylor's Alley, as depicted in the Media. However, it was a temporary commission to deal with the specific incident and not an established institution.

59. At the end of February 14, 2013 there were 1,500 persons at the Belize Central Prison of which 581 persons were on remand. The length of pre-trial detention varies depending on the charges.

60. Police can detain a suspect for up to 72 hours while investigations are carried out so as to allow unimpeded preliminary investigations of crime scenes and potential witnesses. In the prison facility, males on remand are kept separate from convicts. Also, juvenile males are kept in a separate facility on the same compound.

61. The Kolbe Foundation is aligned with international monitoring bodies. The Kolbe Foundation has an open invitation for both local and international bodies to visit the prison. They have had recent visits by the SICA Secretariat for Penitentiary Matters, the International Red Cross and the CARSI - Central American Regional Security Initiative. Privatization of the facility has not prohibited monitoring by independent or local bodies.

62. Since its privatization, a fully furnished health clinic consisting of one doctor and 3 nurses service the prison. There has also been increased bed space from 900 to 1700. In addition, a new sewer system, and a water treatment facility was recently installed providing quality potable water. An indoor kitchen and canteen for use by the prisoners were also constructed. All the chicken and vegetables consumed are grown at the facility by the prisoners. There is also an industrial zone where blocks are made. In addition, there are programmes such as school program, substance abuse rehabilitation program, and skills development.

63. Kolbe has a zero tolerance of inhuman treatment and operates under the UN Standard Minimum Rules for the Treatment of Prisoners. There are internal controls to detect and address instances of prisoner abuse and inhuman treatment by prison officials. The Inmate Welfare Committee was developed to monitor and report cases of prisoner abuses. The Committee is comprised of an inmate trustee of each section of the Prison and the committee meets once every week but have direct contact with the Superintendent as well as the CEO of the Prison to bring

forth any complaints from prisoners within their sections.

64. The age of criminal responsibility is 12 years. There are currently 66 juveniles at the Wagner Youth Facility of which 9 are convicted and the remaining on remand. The offenses for which they are being held include murder, attempted murder, robbery, theft burglary, aggravated assault, drug trafficking, handling stolen goods and illegal entry.

65. The Youth Hostel houses juveniles who may be there for uncontrollable behavior, a status offence or for criminal offences that are considered less serious; or the youngsters are not considered flight risks and therefore do not require the higher security of the Prison facility. There are about 48 juveniles detained at the Youth Hostel.

66. The private Bar of Belize had made allegations that judges were taking too long to issue rulings and demanded expedited proceedings in the delivery of judgments. In an unprecedented statement from the Bench, it pointed to the lack of necessary resources as the principal cause of some measure of delay.

67. A multi-pronged approach has been taken to resolve the matter. The membership of the Bench has since been expanded, and a consultant has been hired and is presently working with the Supreme Court Registry for the establishment of a system for the proper and efficient management of cases and a database is being developed for case management purposes. Judges have also started to do case management themselves by encouraging settlement of matters that can reasonably be settled instead of proceeding to hearing.

68. Additionally, at the Opening of the Supreme Court held on January 14, 2013, the Hon. Attorney General called for continued legal education of practitioners and a return to its traditional role. He said, "I would like to associate myself with the call made by your Lordship to the Bar in your address last year, for them to uphold their traditional role of upholders of the Bench... under our inherited system of law." He acknowledged that "while it cannot be undoubted that the Judiciary is unquestionably under-resourced, the success of our Judiciary is going to be dependent largely on the competence and industry of the practitioners before it and of the Judges that man the Courts."

Elimination of slavery and servitude (art.8)

69. With funds from the Office to Combat Trafficking in Persons the International Organization on Migration (IOM) with the assistance of the Anti-Trafficking in Persons Committee implemented the project: "Strengthening the Capacities of Key Stakeholders to Prevent Trafficking in Persons, Protect Victims and Prosecute Traffickers in Belize." The total cost of the project over a 2 year period 2010-2012 was US \$250,000. Under this project the Anti-Trafficking in Person's Committee benefited from several capacity building trainings. The IOM Project focused on key target groups and conducted trainings with non-traditional partners such as Magistrates, Supreme Court Judges, Teachers, and Health Care Providers. They focused on youth and provided interactive training modules and materials specifically targeting the youth population with the "It Could Happen to You" media campaign.

70. On September 28th, 2012 at the close of the IOM Project in Belize the Anti- Trafficking in Persons Strategic Plan 2012- 2014 was launched. The Strategic Plan aims to consolidate the gains, link with other policies and plans and outline the necessary actions to guide, monitor and evaluate the country's response to combat trafficking in persons over the next three years. The strategic plan is rights based, victim centered and rooted in the principles and practice of accountability, confidentiality and non- discrimination. The Strategic Plan also seeks to strengthen the Multi-sectoral partnerships already established. The strategies outlined in the Strategic Plan targets prevention, protection and prosecution. It also focuses on capacity building and makes provisions for monitoring and evaluation.

71. The Plan outlines the ATIPs Committee role and overall responsibility for coordination of the activities outlined in the strategic plan. The three sub committees will also provide support leading their respective areas in the implementation, monitoring and evaluation. The members of the ATIP Committee are tasked to promote cooperation among relevant government, non government and civil society groups as well as make the necessary links to existing relevant laws, policies and plans.

72. The existing Trafficking in Persons Prohibition Act of 2009 was repealed and replaced with a more robust legislation, the Trafficking in Persons Prohibition Act of 2013. Included are stiffer penalties for human trafficking and related offenses as well as the expansion and clearer articulation of the offenses that are punishable under the law. The seriousness of the crime is clearly demonstrated by the fact that trafficking in persons will no longer be a summary offense, but an indictable one. The Act formalizes the multi-sectoral team that currently leads the country's response to human trafficking. Representatives of the various stakeholder government and non-government entities will be named to a national council that will have clearly articulated terms of reference. The Act recognizes that too many offenders profit from earnings as a consequence of human trafficking and therefore makes provisions for the forfeiture of assets, as well as restitution to victims. Another new feature of this Act is that it recognizes that human trafficking is a global phenomenon and therefore establishes all offenses as having extra-territorial effect.

73. Under Part III of the Act, the Government is required in the investigation of trafficking cases to (a) take all necessary steps to identify victims of trafficking (b) provide reasonable protection to such victims to prevent their recapture, and (c) take reasonable measures to secure the victim's family against threats of intimidation by the traffickers.

74. In practice, the Ministry of Human Development, through its Department of Human Services ("the Department"), provides shelter and basic needs to victims of trafficking while they are in Belize for the duration of the criminal proceedings. The basic needs of victims are assessed and addressed by the Department on a case-by-case basis. Government also provides 24 hour security protection to victims when necessary.

75. In 2012 there were two convictions of human trafficking, and 9 victims under the protection of Human Services Department.

Freedoms of opinions and expression; and association (art.19 and 22)

76. There are no legislative restrictions on the right to form and join a trade union. The right to join a trade union is protected by section 13 of the Belize Constitution and the Employers and Employees Recognition and Statues of Trade Union's Act. We were unable to obtain information on the percentage of the total work force that belongs to a trade union.

77. Under Section 12(1) of the Belize Constitution, Chapter 4 of the Laws of Belize, freedom of expression and speech (hereinafter called "*freedom of expression*") is guaranteed and is protected as a fundamental right and freedom. The fundamental right to free speech extends to "every person in Belize". This of course includes members of the press.

78. Section 12(1) of the Belize Constitution which protects freedom of expression, reads as follows:

"Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of expression, including freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons) and freedom from interference with his correspondence."

Regulation of television and radio stations is covered by the Belize Broadcasting and television Act Chapter 227 of the Laws of Belize. The Belize Broadcasting Authority is composed of eight persons appointed by the Minister responsible for Communications. The Belize Broadcasting Authority regulates broadcasting subject to the licensee's terms and conditions. Licensees are required by the terms of their license as prescribed in the Schedule to the Belize Broadcasting and Telemedia Act to, inter alia;

- 1) Provide a reasonable and balanced opportunity for the free expression of differing views on matters of public importance;
- 2) Where programmes or comments may be considered uncomplimentary, detrimental or injurious to the character or interest of any person or body,, such person or body is entitled, upon request, to a right of reply free of cost;
- 3) Programmes broadcast shall not include material which is "*revoltingly lewd, perverse or sexually explicit, or which promotes, lauds, encourages or incites crime and public disorder*".
- 4) During any pre-designated pre-election period the Licensee shall provide political parties equal broadcast time and shall deal with political parties in a fair and impartial manner.

79. To date Belize has a recorded 11 television stations and 39 Radio Stations, none of which are owned by the Government of Belize. Popular daily radio and television call-in programs are lively and allow for the open criticism of, and comments on, government and political matters. There are at least four privately owned television stations which produce local news and feature local programming.

80. There are 12 recognized newspapers in Belize, 10 of which are privately owned and 2 owned by major political parties. One privately owned newspaper which is published twice weekly, while the others are weekly publications. Regulation of newspapers is covered under the Newspapers Act Chapter 242 of the Laws of Belize. All newspapers are subject to the constraints of Belize's Libel Laws. In our functioning of democracy, the Courts of Belize routinely adjudicate on libel suits brought by individuals against newspaper publishers. The Government does not restrict access to the Internet.

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

Measures for the protection of minors (art.24)

82. In 2007 a Memorandum of Understanding was signed between the Ministry of Health and the Vital Statistics Unit 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 between the Ministry of Health and Vital Statistics Unit has resulted in an improved system of birth registration. However, many parents are still not completing the birth registration process as a result of the multiple steps mandated by the system. Many parents start the process immediately after delivery but never return to complete the process or to collect birth certificates.

83. Some of the associated challenges are the inability for parents to name the child immediately after delivery, providing evidence of marriage in order to have the father's name listed in the birth register or the inability to provide proper identification. Parents from rural communities who do not have all the required information to register before leaving the hospital find it extremely difficult to travel to town (up to three hours in some instance) to complete the process. Most of this is as a result of parents being unaware of the requisite information necessary to register the child right after delivery. The process is even more challenging for parents in rural communities who deliver their children at home, attended by a traditional birth attendant. These children are the least likely to be registered.

84. In 2011, UNICEF supported the Government of Belize to implement the *Make Your Child Count Campaign on Birth Registration* which to date has reached over 17,000 children in 186 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 Make Your Child Count Campaign* removed this bottleneck by taking the services to hard to reach communities. Many communities have limited access to transportation and the community based approach employed by the campaign is the main factor contributing to such large numbers of boys and girls accessing services.

85. While the *Make Your Child Count Campaign* served as an effective mechanism for reaching large numbers of children in rural communities, the Government of Belize partnered with the OAS and UNICEF to strengthen the system for birth registration. Technical Assistance was sought to establish a country wide network for birth registration that would result in electronic application and processing of applications. Currently the system is largely paper based and applications are processed at one central location. This fully computerized system, accessible across the country, will be on stream by April 2013 and will ensure a decrease in turnaround time thus increasing the number of persons accessing services.

86. The Birth Registration Act states that whenever a child is born alive in any district-the parent of the child; or (b) in default of the parent, the person having charge of the child; or (c) in default of such last-mentioned person, every person present at the birth; or (d) in default of such last-mentioned person, if the birth took place in a house to the knowledge of the occupier thereof, then such occupier, shall, within forty-two days next after the birth, or as soon thereafter as can reasonably be done, give personally, or transmit, to the best of his knowledge and belief, information of the particulars required to be registered concerning the birth to the registrar. According to the Multiple Indicator Cluster Survey, 2011, the national rate of registration for children under age 5 is 95.2%.

87. The Government in collaboration with the Office of the Special Envoy for Women and Children continues an awareness campaign targeting the demand for commercial sex acts in the country through a public service message. The newly enacted Commercial Sexual Exploitation Legislation will also strengthen the response. The Act to Prohibit and Punish acts of Commercial Sexual Exploitation of a child in Belize gives effect to and implement the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. The Act sets out provisions that deals with this phenomenon from all angles and offers protection for children and adolescents right up to the age of 18 years. The provisions are also consistent with regional and international standards.

88. As part of the public awareness campaign, the Belize Tourism Board (BTB) conducted in collaboration with the International Organization for Migration several training workshops with tourism personnel the including Tour Guides, Tourism Operators at the Fort Street Tourism Village, Tourism Police Officers, Hotel Staff and Students and reached a total of 207 persons for the year 2012.

Right to be elected (art.25)

89. Belize has a bicameral legislature, the National Assembly, comprised of the House of Representatives and the Senate. The House of Representatives is composed of 31 elected

members. The Senate is composed of 31 elected members. The Senate is composed of 13 members appointed as follows: six members of the Senate are appointed by the Governor General on the advice of the Prime Minister; three members are appointed by the Governor General on the advice of the Leader of the Opposition; and, one each on the advice of the Council of churches, the Belize Chamber of Commerce/Business Bureau and the Trade Union/Non Governmental Organizations.

90. The executive branch, headed by the Prime Minister, is steered by the Cabinet, appointed by the Governor General on the advice of the Prime Minister. The Cabinet is the "*principal executive instrument of policy with general direction and control of the government and [is]... collectively responsible to the National Assembly ...*"

91. Belize also has a system of local government comprising two city councils, seven town councils and a network of 192 village and community councils. The two city councils - Belize and Belmopan - plus the seven town councils cover the urban population in the six administrative districts of the country. The 180 village and 12 community councils cover the rural population across the districts. In the Toledo district and other parts of southern Belize there is an alcalde system that operates alongside village councils.

92. In the town and city councils, the mayors and council members are directly elected. The term of office is three years for all municipalities. Mayors (other than Belize City) have an executive role and are designated as the chief executive officer. Their councils determine their remuneration and benefits. Other members receive an allowance determined by their councils. All councils must elect a deputy mayor from their number.

93. Village councils began in the 1950's but were only formalized by the village councils Act 1999. A village that existed and was recognized by the government before the 1999 Act qualified as a village following the legislation. A new village must have a minimum of 200 eligible voters to qualify as a village. New villages are established by ministerial order. Registered villagers directly elect six councillors and a chairperson who is the leader of the council. Councillors elect a deputy chairperson, secretary and treasurer from their ranks. Councils must meet at least quarterly and the meetings must be open to the public. Decisions are taken by simple majority.

94. The alcalde system is part of the local government structure of Belize. It focuses on judicial matters within a given judicial district. This form of local governance is administered through the inferior courts in accordance with chapter 77 of the Laws of Belize and implemented by five voluntary village police officers. The alcaldes are effectively local magistrates operating at the village and community level. They differ from the chairperson of the village as they have a judicial role for which they are paid a small stipend by the government. They have power to decide who can live in the village and can call for the communal cleaning of a village. They are responsible for managing the communal land and act as school officers. While mainly Mayan communities, including the Mopan and Ketchi groups, in southern Belize practice this form of local governance, the alcalde jurisdiction is not limited to Mayas. Any rural community can adopt the alcalde system as long as the citizens request the relevant authority to implement it.

The inferior court is charged mainly with maintaining law and order and is authorized to hear and pass judgment on petty crimes committed within its jurisdiction. The alcaldes can therefore judge disputes and punish misdeeds and petty crime. The government appoints alcaldes every two years.

Rights of persons belonging to minorities (art. 27)

95. The matter of whether the Mopan and Ketchi Indians that live in the southern portion of Belize are legally the indigenous people of Belize is sub-judice. A decision of the Court of Appeal on this question is expected in the March 2013 sitting of the Court of Appeal. The Government once again puts on record that in keeping with Commonwealth jurisprudence, indigenous status is acquired when certain legal criteria are fulfilled. The rights appurtenant to that status cannot be claimed or conferred in the absence of a specific finding by the Court that the criteria have been fulfilled.

96. Through the alcalde system and the Ministry of Local Government, the leaders of the Maya people are consulted as a matter of good governance, on any major development issue in the areas where they predominantly reside.

