

Stakeholder Submission on Lesbian, Gay, Bisexual and Transgender (LGBT) Rights in Belize
For the 17th Session of the Universal Periodic Review - October 2013

1. This report is submitted by the **United Belize Advocacy Movement**¹ (UNIBAM) and the **Sexual Rights Initiative**². It outlines the situation of **sexual rights** in Belize, making special references to **national human rights institutions**; **sexual minorities**; and **sexuality education**.

Introduction

2. Belize's population is estimated to be 327,719 inhabitants as of July, 2012. According to 2010 census, Latinos are the largest group, with its share of the total population growing from 49% to 50%. Creoles accounted for 21%, down from 25%. Maya and Garifuna made up 10% and 4.6% respectively. The number of Garifunas and East Indians remained at their 2000 levels. About 19 thousand persons or 6% of the population claimed to be of mixed ethnic origin.
3. Belize's traditional cultural and social conservative have experienced a demographic shift in denominational participation. The 2010 census points out that the Roman Catholic faith is the single largest religion, but with its share of the total population falling from 50% to 40%. Pentecostalism, the second largest religion, saw its share of the population increasing from 7.4% to 8.5%. The number of persons who said they did not belong to any religion doubled. This group is larger than any of the main religions except Roman Catholicism.
4. The Constitution of Belize includes a Fundamental Rights chapter that specifies that all citizens, regardless of their race, place of origin, political opinions, colour, creed or sex, and subject to respect for the rights and freedoms of others and the public interest, are entitled to the following rights: (a) life, liberty, security of the person, and the protection of the law; (b) freedom of conscience, of expression and of assembly and association; (c) protection for family life, personal privacy, the privacy of the home and other property and recognition of human dignity.

Legal framework and national human rights institutions

5. The lack of ratification, domestication of international HR legislation of some treaties and lack of human rights policies and institutions have not advance significantly since the 2009 country review. Belize recognises its tardiness in reporting other the treaty bodies³, but has not mapped out a plan of action to address it accomplishing the recommendations formulated by several countries during the UPR of 2009 and accepted by Belize⁴.

¹ The United Belize Advocacy Movement is an organization that uses rights-base approaches to reduce stigma and discrimination. It is the only advocate LGBT organization in the country that is managed and led by LGBT to address health and rights base issues.

² The Sexual Rights Initiative is a coalition including Akahata– Latin American team work on sexualities and genders-; Action Canada for Population and Development; Creating Resources for Empowerment and Action-India, the Polish Federation for Women and Family Planning, and others)

³ Belize has ratified CERD 14th Nov, 2001; CEDAW 16th May, 1990; CRC 2nd May, 1990; CPRD, 2nd June, 2011; it will not sign or ratify the Op-ICCPR due to the death penalty references in the constitution. see links for <http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>

⁴ See A/HRC/12/4, Item 67 and A/HRC/12/4/Add.1, Item 20 .

6. In 2000 Belize signed the International Covenant on Economic, Social and Cultural Rights, but has not ratified the covenant. Nor has it signed on to the optional protocol. The optional protocols for CAT has not been acceded to or ratified and country report remains overdue for CAT. The International Convention for the Protection of All Persons from Enforced Disappearance has not been signed or ratified despite accepting to consider the recommendation for ratification⁵.
7. National legislation for implementing the substantive rights set out in international human rights law has not been forthcoming, making it clear that the Government of Belize to strengthen its human rights framework for its citizens and meet its obligations under international human rights law remain without any specific commitments to timelines and action.
8. National Human Rights mechanisms exist as interim bodies with no committed timelines to assess feasibility, and they include the Ombudsman Office only. There is no functioning Human Rights Commission in Belize as of end of beginning 2013.

Recommendations:

The government of Belize should:

9. Conduct a legal review based on sexual orientation and gender identity to define how enacted national legislation reflects substantive rights set out in international human rights obligations ratified by Belize and carry out the necessary actions to address gaps.
10. Develop and amend national legislation in order to ensure the domestication of regional and international treaties ratified by Belize
11. Set timelines and commitment to take specific actions with regards to the development of a human rights organism as recommended in the last UPR of the country⁶

LGBT Human Rights

12. As the Yogyakarta Principles observe, all persons, regardless of their sexual or gender identity, are entitled to the full enjoyment of all human rights. In spite of existing obligations on Belize by virtue of the ratification of treaties, the government of Belize continues to deny extending to its LGBT citizens, social and legal recognition and protection of substantive rights in subsidiary legislation. There are several dispositions that do not reflect the application of equal treatment to sexual minorities, by action or by omission:
13. Belize Criminal Code Chapter 101 states in section 53: "*Every person who has carnal intercourse against the order of nature with any person or animal shall be liable to for 10 years.*" A constitutional challenge was launch as the state did not demonstrate committed timeline to repeal or amendment. Currently, a case is filed before the Supreme Court to challenge that regulation⁷. In previous review Belize has received recommendations to take appropriate legislative measures in order to ensure that no person can be subject to criminal sanctions for same-sex activity between consenting adults⁸.

⁵ See A/HRC/12/4, Item 67 and A/HRC/12/4/Add.1, Items 3 - 4 .

⁶ See A/HRC/12/4, Item 68, 4

⁷ Section 53 case 668 of 2010 was filed in the Supreme Court, presently with sole claimant Caleb Orozco vs Attorney General and Interested parties being the Evangelical Association, Catholic Church and Anglican Church. UniBAM was recently added as interested party after being stuck out in April of 2012 alongside the international Commission of Jurist, Commonwealth Lawyers Association and Human Dignity Trust.

⁸ A/HRC/12/4, Item 68, 3

14. Belize still retained its discriminatory immigration law that affects not only homosexuals⁹ but mentally challenged people (described as “any idiot or any person who is insane or mentally deficient...”) and physically disabled persons (described as “deaf and dumb or deaf and blind, or dumb and blind,...”) even though, Belize signed and ratified the UN convention on the rights of Persons with Disabilities in 2011. A legal challenge to Belize’s immigration law was initiated since the state did not signal an interest in amending the current status of the law despite its treaty obligations¹⁰.

Police and Community Abuse

15. In the last UPR Belize has accepted the recommendation to provide human rights training with regard to the protection of the vulnerable groups, in particular women, children, indigenous peoples, and persons of minority sexual orientation or gender identity, to law enforcement officials, judicial officers, and all state officials.¹¹ However, general human rights violations during the last two years have been reported about gay men, lesbian women and transgender people involving violence, humiliation and discrimination in the villages, cities and towns and at police stations by police agents several incidents of violence and threats against LGBT people¹².
16. Most of cases are not reported, because gay, lesbian and transgender people don’t trust that the police officers and judicial agents act regarding justice and human rights. Some cases of psychological violence -performed by police officers by failing to take statements, laughing individuals out of the police station or contributed to additional harassment - have been denounced in the last years¹³ Failure of officers to carry out their duties has a penalty under the police act, however victims of police abuse are influenced by fear of further abuse on the streets and cynism that there is no accountability for officers unprofessional behaviour.

Right to Education

17. According to legislation¹⁴, all children under 18 years old have rights to education. However, due to the lack of practical implementation of policies and legal mechanisms,

⁹ The Immigration Act, Chapter 156, Revised Edition 2000, under categories of prohibited immigrants - Section 5.(1) (2) (3)- includes the following “(e) any prostitute or homosexual or any person who may be living on or receiving or may have been living on or receiving the proceeds of prostitution or homosexual behaviour”.

¹⁰ <http://www.aidsfreeworld.org/Newsroom/Press-Releases/2012/Challenge-to-Belize-Immigration-Law.aspx>

¹¹ See item 12: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/156/96/PDF/G0915696.pdf?OpenElement>

¹² On October 12th, 2010 a police officer sought to humiliate and intimidate two gay men with sodomy charge under section 53 of the criminal code, forcing them to wash his vehicle. In February 2011 another similar incident occurred in the Western part of the country in the village of Esperanza, in this situation the two gay man were extorted by the officers to pay them \$100us dollars, to prevent arbitrary detention. In April 2011 two transgender individuals were held without charge because of their gender expression. In the three cases, none formally followed up with a formal report for fear of retribution and lack of confidence for the police to follow-up reports in a timely manner. On 28th September 2009 a gay PLHIV, held by police was shoved off his feet by several officers. In the process of locking him in the cell, they took away his ARV medication and refused him access. While held at the substation cell one officer threatened to beat him and take a charge. The Executive President was called to inquire about his treatment in person at midday. He did not get his ARV’s until arriving and demanding his medication.

¹³ Lesbians are not immune to mistreat, especially in rural areas. In August, 2012 two lesbians that were at a wedding in Crooked Tree, were attacked by a man who punch one of them inflicting a wound behind the ears. The victim said, “that man hurt me for just being me”. They did not report the incident to the police because they felt nothing would happen. All cases mentioned and others were received and documented by UniBAM over the last two years.

¹⁴ Convention on the Rights of the Child (CRC), Art.28, and article 3 of the Constitution of PRC, art 3

LGBT children and young adults cannot fully enjoy these rights in Belize, because of violence and discrimination.

18. In October of 2012 a student in his last year of high school was suspended from school for three days because of holding an opinion contrary to his principal religious views about LGBT people. He was threatened with expulsion if he” continued advocating the way he did,” in support of LGBT rights. In 2009 a young child was prevented of registration in elementary school because parents “lifestyle”, being lesbian parents. The child got registered with the help of the Ministry of Education intervention. In another case, a transgender student of 19 was expelled for being too effeminate. He got back into classes but it was not without a public fight¹⁵
19. In addition, LGBT students (or those perceived as such) have encountered and are encountering homophobic and trans-phobic bullying in schools without substantial support from schools officials and teachers prior, during and after being bullied In 2011, a former student reported that after he was punched and verbal abused by another student, he was forced to see a counsellor and have prayers said on him to remove his homosexuality. Another victim, was a 16 year old boy that was sexual assaulted by another student who was 21 who bullied him through gossip with peers in school about the incident. Ashamed, he left the school and received not justice.
20. Catholic and Evangelical schools have a problematic relationship with sexuality issues that damages the government investment in comprehensive sexuality education. There is a history of denominational schools management expelling girls for being pregnant and firing female teachers for having a baby out of wedlock, while the former Catholic Bishop has strongly spoken against condom use. General managers of denominational schools consider that their teachers are uncomfortable with sexuality education. And this is particularly relevant when considering that the Catholic Church runs an estimated 60% of the country’s schools.

Recommendations:

The government of Belize should

21. Elaborate and implement a national plan to invest in stigma and discrimination reduction strategies in the education system, including the elimination of homophobic bullying as well as to document and punish discriminatory behaviour on part of educators towards gays, bisexual, transgender children.
22. Ensure that LGBT students and parents have access to legal advocate/counsellor to support them in addressing any discriminatory experience in the education system.
23. Educate and sensitise members of the police and principals about their obligations in terms of non-discriminatory treatment towards gays, bisexual, transgender students and persons living with HIV and establish the adequate mechanisms to punish torture, violence and discrimination performed by state agents against people living with HIV/AIDS and LGBT people.
24. Commit investment in education system to integrate sexual diversity and non-discrimination principles into current curriculum.
25. Implement a sensitive national campaign in cooperation with NGOs to promote non-discrimination practices and policies addressing sexual orientation and gender identity and to eliminate homophobic bullying.

¹⁵ <http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/globalactionalerts/1032.htm>

Sexual and Reproductive Health, Rights and HIV/AIDS

26. Belize has accepted the recommendation made in previews review of strengthening activities directed to HIV prevention as well as against stigma and discrimination of HIV positive people¹⁶
Cabinet recently approved a Youth Policy that recognises 15-24 year old in 2009 accounted for 18.6% of new cases for HIV/AIDS¹⁷
27. The country also signed many treaties that included health commitments and declarations like the 1st Meeting of Ministers of Health and Education to Stop HIV and STIs in Latin America and the Caribbean, the Belize government committed also to comprehensive sexuality education. However, religious ideology have replaced a human rights-base policy.
28. No specific legislative measures or amendments have been introduced to address stigma and discrimination against people living with HIV/AIDS, in particular regarding men who have sex with men.
29. Current Sexual and Reproductive Health Policy does take into account the sexual rights of older persons nor is there sufficient investment in education for older persons while HIV positive women who seeks to exercise their right to have a child don't have the necessary counseling services to help them make an informed and autonomous decision.

Recommendations

The government of Belize should:

30. Implement all necessary measures to address the serious problem stigma and discrimination against people living with HIV/AIDS, including the enactment of legislation to eradicate this phenomenon.
31. Commit to update the sexual and reproductive health policy to reflect positive women's rights to maternity, LGBT older persons rights to access adequate services and sexuality education.

¹⁶ A/HRC/12/4, Item 68,

¹⁷ The country UNGASS report of 2010 speaks to weak sexual and reproductive health programs, lack of a clear standards in education and health for the legal requirement for access to health services is 18 and below that require age consent.