



Human Rights Violations of Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Belize

Submission to the United Nations Human Rights Committee on Relevant Issues Prior to Reporting (LOIPR) (Belize)

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Submitted by:

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I. Introduction

The United Belize Advocacy Movement (UniBAM) and the Heartland Alliance for Human Needs & Human Rights (Heartland Alliance) respectfully requests that the Human Rights Committee consider the outlined substantive human rights violations against LGBT people in Belize, and recommends that the following topics be addressed in the List of Issues for the First Periodic Report of Belize.

II. Substantive Violations of the ICCPR

State discrimination against sexual minorities in Belize

Article 2(1) and Article 26: Discrimination and unequal treatment of LGBT persons under the law

The Belizean Criminal Code criminalizes private, consensual sex between adult men.¹ Section 53 of the Code describes same-sex sexual relations as an “unnatural crime,”² and makes it a criminal offense to have “carnal intercourse against the order of nature.”³ The penalty for violation of §53 is ten years imprisonment.⁴ The criminalization of sexual relations between men authorizes Belizean law enforcement officials to investigate intimate details regarding private life and to detain homosexual men if they engage in sexual activities that contravene §53. Regardless of whether §53 is enforced, the law has serious human rights implications for LGBT individuals in Belize. The law unambiguously violates the right to equal treatment under the law⁵ as well as the right to privacy.⁶ In addition, it perpetuates the stigma of sexual minorities within Belize society, and provides pretext for unscrupulous state authorities to engage in blackmail by threatening arrest. LGBT persons face pervasive societal discrimination in areas that directly affect daily life such as employment, housing, health, media, immigration, and family matters. As such, the law serves as a pretext for denying sexual minorities a range of rights to which they are entitled under the ICCPR and other human rights conventions and laws.

- In February of 2011, in the village of Esperanza (Cayo district) four police officers pulled up beside a car that two gay men were driving. The officers kicked the door of the car, insulted the men, and demanded that they both pay \$200 to the police officers or be arrested.

A corollary to the criminalization of same-sex sexual activity is that the government cannot acknowledge same-sex partnerships (at least between men) without contradicting §53. Thus, as compared to opposite-sex relationships, same-sex relationships are systematically unrecognized and devalued under Belizean law. Of particular concern is that same-sex couples are denied entitlements that are available to unmarried opposite-sex couples. For instance, the Administration of Estates Act governs the transfer of assets upon the death of a person. If a decedent with a partner of the same sex dies intestate, failing to designate beneficiaries in his or her will, the living partner will not receive any part of the estate, regardless of the longevity of the relationship. However, the Act does protect common law husbands and wives who have

¹ Criminal Code of Belize, Part II, Title VII §53 (2000) available at <http://www.belizelaw.org/lawadmin/PDF%20files/cap101.pdf>.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ International Covenant on Civil and Political Rights, G.A. Res. 2200A, 99 U.N.T.S. 171, art. 26 (Dec. 16, 1996) [hereinafter ICCPR].

⁶ ICCPR, art. 17.

resided with their partners for five years or more in the same way that it protects lawfully married couples.⁷

Article 9 and 10: Arbitrary detention of sexual minorities and mistreatment of detained sexual minorities

While the criminal prohibition of consensual, same-sex activity remains enforceable, sexual minorities are vulnerable to state authorities using the law as a pretext for infringing on other human rights. In particular, the law has been used to arbitrarily detain individuals based on their sexual orientation or gender identity.

- On the evening of April 30th, 2011 two police officers detained two transgendered patrons at a bar. Immediately upon entering the bar, one of the officers directed derogatory questions towards these individuals such as “are you girls?” and “why are you dressing like that if you are a man?” The police officers physically detained them and, when asked for a reason, answered “because you look suspicious, you confuse me.” During the car ride to the prison, the transgendered individuals were subjected to offensive and humiliating language from the officers, which continued upon arrival at the prison, with one police officer insinuating that these individuals should be murdered and dumped on a nearby highway. Other prison inmates threatened sexual violence against the transgendered individuals, and one was forced to expose herself. They were released the next morning, with no charges brought against them, and have not filed charges out of fear of reprisal.

Article 12 and Article 13: Discrimination against LGBT immigrants

Section 5(1)(e) Belize’s Immigration Act includes “homosexuals” as “prohibited persons” for immigration purposes.⁸ Sexual minorities that are foreign nationals may be denied entry into Belize or deported after entry. On its face, the law is discriminatory as sexual orientation and gender identity may be invoked as the sole reason for prohibiting entry into Belize. The law has also been used by immigration officers, who are granted wide discretionary decision-making power in individual immigration cases, to intimidate sexual minorities seeking entry into Belize. The restriction, and its enforcement, is particularly problematic in regard to those seeking asylum or refugee status due to persecution in their country of origin. Sexual minorities from many parts of the world have a well-founded fear of torture, inhuman or degrading treatment or punishment, and even death. Refoulement back to country of origin – as Belize’s Immigration Act would require – could result in numerous human rights violations, including the prohibition of torture and the right to life.

- On November 16th, 2011, two female foreign nationals that had the same address and were travelling together- Xenia Paz Bardalez of Honduras and Yolanda Pineda Castillo of Mexico - were detained at the Belizean border. Ms. Castillo had lost her passport and thus was attempting to cross with other legitimate legal documents. After ascertaining that the women were not relatives (and presuming they were in a relationship), the immigration officials seized their immigration documents, and detained them without any expressed reason. During the detention, one of the women was subject to derogatory comments and sexual advances from an officer. The women were not released and given back their documents until they paid an extortion of 10,000 Mexican pesos. One immigration officer,

⁷ Administration of Estates Act of Belize (2000), available at <http://www.belizeaw.org/lawadmin/PDF%20files/cap197.pdf>

⁸ Immigration Act of Belize (2000) Article 5(1)(e). available at <http://www.belizeaw.org/lawadmin/PDF%20files/cap156.pdf>

Eneida Morales, asserted that the two women were detained because “the Honduran national could not be trusted.”⁹

Failure to protect the human rights of sexual minorities in Belize

Article 2 and Article 26: Hate Speech against LGBT persons

The policies instituted by the Belizean government, particularly the criminalization of same-sex sexual conduct, have reinforced the general stigmatization of sexual minorities within Belizean society. State authorities have done little to reverse this trend. Currently, there is a constitutional challenge against §53 of the Criminal Code pending with Belize’s Supreme Court.¹⁰ The case has ignited widespread debate within Belize, and a number of mass media mediums in Belize publish and disseminate hate speech, spread misinformation about homosexuality, and incite discrimination against LGBT persons.

The Belizean government has not taken any measures to curb this incendiary and violent speech. There have been no public education or awareness campaigns to promote the full enjoyment of human rights, regardless of sexual orientation or gender identity. Additionally, no government officials have publicly condemned or sought to prevent these hateful comments. In fact, one public official, the Minister of Human Development, Social Transformation and Poverty Alleviation Minister Anthony "Boots" Martinez, stated publicly on television “my position is that God never placed anything on me for me to look at a man and jump on a man...I’ll fight tooth and nail to keep that law.”¹¹

- Amandala, a very widely circulated tabloid newspaper, has printed a number of biased, homophobic articles regarding homosexuality and the effort to overturn §53. Below are a small sample of these articles:
 - An editorial in the newspaper claimed “in reality it is the [homosexual community] against the people of Belize. If their suit succeeds, the people lose; and if it fails, the people win...the people are never wrong and, it is the people who support the law which makes homosexual acts criminal.”¹²
 - The Editor-in-Chief, Russell Vellos, wrote in Amandala column “this particular column is not for the faint-hearted. I am going to deal with homosexuals, and I’ll use strong language...homosexuals prey on young children, and teenaged boys...I can think of no more obscene, disgusting, evil, wicked and perverted act that one man could do to another...Good Belizeans, don’t just sit there and do nothing. Get up and help fight this evil in our midst. The homosexuals are serious, very serious. We have to be just as serious, very serious, in fighting this scourge of wickedness.”¹³

⁹ “Women claim wrongdoing by immigration officers,” 8 December 2011, available at <http://www.lovefm.com/ndisplay.php?nid=15209&fromsrch=1>.

¹⁰ *Caleb Orosco v. The Attorney General of Belize*

¹¹ “Minister Anthony Boots Martinez appears on Rise and Shine,” 8 June 2011, available at <http://www.plustvbelize.com/News/NewsDetails/tabid/63/ArticleId/226/Min-Anthony-Boots-Martinez-appears-on-Rise-and-Shine.aspx>.

¹² “Ideas and Opinions – UniBam v. People of Belize,” 21 October 2011, available at <http://www.amandala.com.bz/index.php?id=11808>.

¹³ “Of this and that,” 17 November 2011, available at <http://amandala.com.bz/index.php?id=11907>.

- In another column, Vellos wrote “I’ve got news for these homos. I won’t budge a millimeter from my stand against them. They can call me anything they like... theirs will still be a nasty, despicable, God-forbidden way of life until the heavens crumble, and even afterward... An individual wrote me a very short note in support of my previous article, and his remark against homosexuals was, “not even my dogs do this!”¹⁴
- Vellos also wrote “They’re after the kids. The UK approved same-sex marriage years ago; now they’re having court battles to lower the ‘age of consent.’ ...This proves that they’re after the kids. Homosexuals cannot reproduce; therefore, they must recruit.”¹⁵
- The Star News published an article titled “Belizean stand up and say ‘no’ to the homosexual agenda” in which it states that “It has been established that this is an imported agenda – an international agenda – brought in from beyond our national borders.”¹⁶
- Many comments in the comments section of these articles, as well as articles and stories that are unbiased or in favor of changing §53, are extremely hateful.
 - “First of all lets all be proud as belizean but lets not be proud on those \$#!% they trying to bring to our beloved country, belize it or not they will die one by one if gay rights are being ... believe me they will die just like how jamaica do with them. SO SAY NO TO ALL GAYS AND NO TO UNIBAM LET THEM BURN!!!”¹⁷
 - “no, no, no to goddarned homosexuals. Get scarce or better yet disappear. Zero tolerance to this attitude or actions. I will not state any reason simply NO!”¹⁸
 - “pack dem up and the rest of nasty people and n drop dem out a sea pas the reef.....and let the sharks eat their body parts that they don’t know how to use.”¹⁹

Article 2, Article 7, Article 9 and Article 26: Violence towards LGBT persons

Sexual minorities in Belize live in the midst of hostile societal conditions, and continue to be victims of violent physical attacks and sexual assault, which are often not reported to or investigated by the police.

- In 2004, a transgendered individual was walking in the village of San Jose, in the Orange Walk district of Belize when a group of young men began throwing bottles at her. She reported the assault to the local police, who laughed at her and failed to take the incident seriously.

¹⁴ “Of this and that,” 17 November 2011, available at <http://amandala.com.bz/index.php?id=11939>.

¹⁵ “Decriminalizing homosexuality will have dire ripple effects: churches,” 25 November 2011, available at <http://www.amandala.com.bz/index.php?id=11929>.

¹⁶ “Belizean stand up and say ‘no’ to the homosexual agenda,” 19 June 2011, available at <http://belizenews.com/thestar/cayostar277.pdf>.

¹⁷ “UniBAM gets boots from Obama,” 7 December 2011, available at <http://edition.channel5belize.com/archives/64205>.

¹⁸ “1st Round of Churches v. UniBAM misfires,” 29 November 2011, available at <http://edition.channel5belize.com/archives/63728>.

¹⁹ “Churches hold discussion on UniBAM,” 22 November 2011, available at <http://edition.channel5belize.com/archives/63599>.

- In 2005, a transgendered individual in Guinea Grass village, in the Orange Walk district of Belize, was raped by a man she knew. She did not report the sexual assault to her local police or tell her family out of fear of disgracing herself and her family.
- In 2010, a transgendered individual in Guinea Grass village, in the Orange Walk district of Belize was raped by a drunken man wielding a machete. She did not report the sexual assault to her local police or tell her family for fear of disgracing herself and her family.
- On February 8th, 2012 a Caleb Orozco, a well-known Belizean gay rights activist and human rights defender that has been leading the challenge against §53, was assaulted when he was walking down the street. The men yelled anti-gay slurs at him, and one man threw a beer bottle in his face causing bruises and damage to two of his teeth. Though he filed a report to the police, no investigations of the incident have been initiated.

Many victims of these attacks do not seek recourse because of the law criminalizing same-sex activity, as well as the fear of reprisal and general societal hostility towards them. Those that do report these incidents are often ignored by state authorities or subjected to more anti-gay hostility. These individuals are being denied their right to effective remedies and recourse by Belize because of its failure to investigate these crimes, and hold the perpetrators accountable. Additionally, government has not provided police trainings nor instituted policies that would address this issue.

Article 19 and Article 22: Freedom of Expression

The stigmatization of LGBT people has lead to discrimination based on gender identity, dress, bodily characteristics, and other forms of protected expression.

- On October 1st and 5th of 2009, a 19-year-old transgendered student, Jose Garcia, in Camalote, Young Bank was formally threatened on multiple occasions with dismissal from the Belmopan Baptiste School of Adult Continuing Education because, according to the school, he “acts like a girl,” “dresses effeminately,” and “uses the female bathroom.”

III. Topic Recommended for Inclusion in the List of Issues

UniBAM and Heartland Alliance respectively suggest that the United Nations Human Rights Committee include the following topics in the List of Issues for Belize:

- Repeal Section 53 of the Criminal Code of Belize (law criminalizing same-sex conduct).
- Reform the Immigration Act to take ‘homosexuals’ off of the list of prohibited persons, particularly those individuals seeking asylum or refugee status.
- Adopt criminal legislation that imposes proportional criminal sentences for violent hate crimes committed because of the real or perceived sexual orientation or gender identity of the victim, and ensure that hate crimes are investigated, prosecuted and, where applicable, punished.
- Provide equality and human rights sensitization training, particularly in the area of LGBT rights, for teachers and staff in schools, governmental officials at all levels, and in particular law enforcement officers.

- Enact and enforce disciplinary penalties for law enforcement and immigration officials that engage in the arbitrary detention, harassment, and blackmail of sexual minorities.
- Adopt stringent investigatory mechanisms to address crimes committed against sexual minorities, and document complaints and crimes committed against LGBT persons in police annual report.
- Enact legislation prohibiting discrimination that is inclusive of sexual orientation and gender identity in all realms, including employment, housing, education, and access to health services.
- Engage in public education campaigns regarding human rights and correcting widespread misinformation regarding sexual minorities.
- Condemn hate speech generally, and specifically against LGBT persons, and institute civil and criminal penalties for engaging in hate speech that incites violence against LGBT persons.