UNITED NATIONS **A**

General Assembly

Distr.
GENERAL

A/HRC/WG.6/5/BLZ/3
20 February 2009

Original: ENGLISH

HUMAN RIGHTS COUNCIL
Working Group on the Universal Periodic Review
Fifth session
Geneva, 4-15 May 2009

SUMMARY PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15 (C) OF THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1*

Belize

The present report is a summary of four stakeholders' submissions[1] to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review.

* The present document was not edited before being sent to the United Nations translation services.

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations

1. A joint submission by the United Belize Advocacy Movement and the Sexual Rights Initiative (JS1)[2] reported Belize has signed the International Covenant on Economic, Social and Cultural Rights on 6 September 2000, but has not ratified the covenant.[3]

B. Constitutional and legislative framework

2. JS1 reported that the Political Reform Commission Report of 2000 and other State documents mentioned the need to include protection against sexual orientation in Belize's Constitution, acknowledging the issue of freedom from discrimination based on sexual orientation.[4]

3. JS1 recommended the enactment of national legislation to implement the substantive rights set out in international human rights obligations ratified by Belize.[5] Regarding the issue of sexual minorities, it recommended the creation of a legal framework to safeguard their rights, including through amending the legislation on immigration and rape.[6]

4. The University of Arizona Indigenous Peoples Law and Policy Program (UA) recommended that Belize develop legislative, administrative or other measures necessary to create an effective mechanism to identify and protect Maya customary property rights in accordance with Maya customary laws and land tenure practices, and in consultation with the affected Maya people.[7]

C. Institutional and human rights infrastructure

5. JS1 recommended the creation of a national human rights institution in full compliance with the Paris Principles.[8]

D. Policy measures

6. JS1 indicated that the criminalization of the legal status of consensual same-sex relationships does not allow for the sustained public education campaigns that would help reduce societal biases.[9]

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

Implementation of international human rights obligations

1. Equality and non discrimination

7. JS1 indicated that prejudice and social stigma are a part of the daily experience of young gay and transgender persons in the education system, a situation which would also affect people living with HIV/AIDS. It also indicated that many lesbian, gay, bisexual, and transgender/transsexual (LGBT) persons face tremendous psychological and emotional problems, prejudice and marginalization from society, their families and communities when they reveal their sexual orientation or gender identity.[10] JS1 recommended opening a dialogue on culture and human rights to guarantee that no human rights violations will be perpetrated against anyone –including LGBT persons- under the name of culture or tradition.[11]

8. JS1 also reported that there is no legal framework that protects the rights of people living with HIV/AIDS, although there is a fairly widespread and institutional awareness of the problems faced by such persons. According to JS1, issues of lack of access to testing, lapses in confidentiality and discrimination within the health service sector against young people, men who have sex with men and transgender persons, have all contributed to sustained restrictions in access to care for people living with HIV/AIDS. It further noted that parts of the media continue to present HIV/AIDS as a homosexual disease.[12] JS1 recommended the promulgation of a legal framework with enforcement powers to protect people living with HIV/AIDS from discrimination in all areas, including in the health service, schools and workplaces.[13]

2. Right to life, liberty and security of the person

9. The Global Initiative to End All Corporal Punishment of Children (GIECPC) indicated that Section 39 of the Criminal Code allows the use of "justifiable force" for the purposes of correction by those with authority over children under 16; Section 6 of the Summary Jurisdiction (Offences) Act confirms "the right of the parent, teacher or other person having the lawful control or charge of a child or young person to administer punishment to him"; Section 2 of the Families and Children (Child Abuse) (Reporting) Regulations (1999) states that "reasonable disciplinary measures" do not constitute abuse if they are administered "reasonably and in moderation, and do not cause physical, psychological or emotional harm or injury to the child", but this is not interpreted as prohibiting all corporal punishment.[14]

10. GIECPC noted that corporal punishment is lawful in schools under sections 24 and 27 of the Education Act and para. XVIII 79 of the Primary Education Rules, that the Ministry of Education drafted new Education Rules which did not allow for corporal punishment in 1999, but this was reversed in the Education Rules in 2000, with prohibition again under discussion in the context of drafting new education rules. GIECPC reported that a survey of 939 school students concerning absenteeism and child-friendly primary schools by the Human Rights Commission of Belize (NGO) found that 39 per cent of children identified violent behaviour, including corporal punishment by teachers, as the aspect of school children liked the least.[15]

11. GIECPC reported that corporal punishment is unlawful as a sentence for crime in the penal system, and it is prohibited as a disciplinary measure in the "Youth Hostel" detention centre under the Social Services Agencies (Operators of Residential Care Facilities for Children) Registration, Licensing and Minimum Operating Requirements Regulations of 2004. It is nevertheless lawful in other penal institutions under the Prison Rules (2000) and the delegation of parental authority to those given custody of young offenders in the Juvenile Offenders Act (1936).[16]

12. JS1 indicated that the International Centre for Prison Studies ranks Belize as having the 12th-highest prison-to-public ratio in the world, with about 461 inmates per 100,000 inhabitants. It reported that the only existing prison in Belize is run by the Kolbe Foundation, a Christian institution that receives Government funding for this task. JS1 further indicated that the institution's opposition to the use of condoms, and Section 53 of the Belize Criminal Code that would make a prison official who distributes condoms to prisoners an accessory to a crime, makes HIV/AIDS prevention in jails extremely difficult.[17] JS1 recommended the implementation of an HIV/AIDS/sexually-transmitted infections prevention program for those deprived of their liberty, including sensitivity and awareness workshops, free distribution of condoms and voluntary counselling and training (VCT).[18] JS1 reported that the overall prevalence rate of HIV/AIDS in Belize is 2.4 per cent compared to the 4.5 per cent for the prison population, according to research done in 2005.[19]

3. Administration of justice and the rule of law

13. JS1 indicated that Section 71 (1) of the Belize Criminal Code defines rape as the carnal knowledge of a female of any age without her consent, assuming that males cannot be raped and leaving raped men without recourse to the law. It also noted that Section 47(1) of the Criminal Code reads that "every person who carnally knows a female child under the age of fourteen years, with or without her consent, shall on conviction on indictment be imprisoned for a term which shall not be less than twelve years, but which may extend to imprisonment for life."[20]

14. According to the JS1, the United Belize Advocacy Movement had documented several incidents of violence and threats against gay men by the police, adding that when a crime is reported to the police by LGBT persons, victims may experience further stigmatization and discrimination, with their identity becoming the focus of police attention and their complaints ignored and trivialized, in some cases, leading to the arrest of the victim. These incidents largely remain invisible because they go unreported as victims feel ashamed and do not trust the police.[21] JS1 recommended the education and sensitization of members of the police on their obligations in terms of non-discriminatory treatment towards LGBT persons and persons living with HIV/AIDS, as well as to investigate and, when needed, punish, discriminatory and abusive behaviour on the part of police officers towards LGBT persons and persons living with HIV/AIDS.

4. Right to privacy, marriage and family life

15. Belize's Criminal Code Chapter 101 states in section 53 that "every person who has carnal intercourse against the order of nature with any person or animal shall be liable to imprisonment for 10 years," as reported by JS1, adding that this disposition criminalizes consensual non-procreative sex, affecting both same-sex and straight relationships, although societal bias would lead to it being enforced only against those who are having same-sex sexual relationships or are perceived to be doing so.[22] It recommended the de-criminalization of consensual sexual relations between adults of the same sex by repealing Section 53 of the Belize Criminal Code.[23]

16. JS1 reported that people younger than 16 cannot access HIV/AIDS VCT services without parental consent. This would violate the right to privacy and in the end the right to health of young people, particularly of those having same-sex relationships and young woman having pre-marital sex, as they might choose not to access the services in order to avoid being punished by their parents if they reveal their sexual behaviour.[24] JS1 recommended the requirement of parental consent for providing counselling and testing services to people less than 16 years of age be eliminated.[25]

5. Right to social security and to an adequate standard of living

17. Abortion is legal in Belize when the pregnant woman is facing severe physical or mental health problems or when there is foetal impairment, but not on request or in case of rape or incest, as noted by JS1. In 2005, over 365 women were admitted to local hospitals for complications resulting from illegal abortions. JS1 recommended the legalization of abortion in case of rape or incest, particularly when the victims are underage. It also recommended that Belize guarantee quality post-abortion care in public hospitals for all women who have undergone abortions, regardless of their age, without reprisals.[26]

6. Right to education and to participate in the cultural life of the community

18. JS1 indicated that sex education is being integrated in the primary and secondary curricula as part of a program called the Health and Family Life Education formulated by the Ministry of Education, with teachers having been trained and Health and Family Life Education Officers having been hired to incorporate basic sex education into the curriculum. However, JS1 indicated that Catholic and evangelical schools, which run over an estimated 60 per cent of the country's schools, have not adequately contributed, given that girls are expelled when pregnant and female teachers are fired for having a baby out of wedlock, while the former Catholic Bishop has also spoken against condom use.[27] It recommended that Belize review the current curricula on Health and Family Life Education in consultation with civil society organizations, the academia, teachers and student unions. It also recommended design and implementation of public awareness and education campaigns on sexuality strategically aimed at young people who might be left out of the sexuality education provided by Government-run schools either because of they attend religious schools or because they have been marginalized by the education system.[28]

7. Minorities and indigenous peoples

19. Cultural Survival (CS) indicated that the customary land-use and occupancy patterns of the Maya of Belize are threatened by Government concessions to oil and logging companies, despite findings by national courts and international human rights organs that these concessions violate their human rights.[29] CS and UA reported that in October 2007, the Belize Supreme Court ruled in favour of the Mayan villages of Conejo and Santa Cruz, holding that their rights to lands based on Maya customary land tenure practices constitute "property."[30] UA added that the Supreme Court had also found that Belize had infringed upon the rights of the Maya villages of Conejo and Santa Cruz to equality and non-discrimination by not recognizing and protecting Maya lands, and by issuing leases, land grants, and concessions to logging and oil concessions within Maya traditional lands. The Supreme Court concluded that the rights of the Maya communities to their lands are protected by the right to life, liberty, security of the person and protection of the law guaranteed under the Constitution because, "without the legal protection of their rights to and interests in their customary land, the enjoyment of their right to life and their very lifestyle and well-being would be seriously compromised and would be in jeopardy."[31] The Supreme Court stated that the Government had not taken "any meaningful steps to delimit, demarcate or otherwise establish the necessary framework to clarify and protect the lands on which these rights exist" and that "the acts and omissions of the defendants regarding the claimants' rights to and interests in their lands, do not accord with the protective regime of the constitution regarding property," according to CS.[32] Both CS and UA cited related findings by the Inter-American Commission of Human Rights in 2004 and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people in 2007;[33] UA also cited findings by the Committee on the Elimination of Racial Discrimination.[34]

20. CS stated that the Supreme Court had ruled that the Government "cease and abstain from any acts that might lead the agents of the Government itself, or third parties acting with its acquiescence or its tolerance, to affect the existence, value, use, or enjoyment of the property located in the geographic area occupied and used by the Maya people of Santa Cruz and Conejo unless such acts are pursuant to their informed consent and in compliance with the safeguards of the Belize Constitution."[35] This prompted the Government to issue a directive suspending leasing, permitting and other land dealings in Toledo until further notice, but the directive was revoked only a few weeks later without notice, to the Maya communities. The measure was later replaced by a second directive of the Solicitor-General in April 2008, which restricted the ban to

the villages of Santa Cruz and Conejo, and allowed activities under existing permits to resume.[36] UA also reported that the initial action by the Government following the Court decision had been encouraging, as they acknowledged that the judgment had implications for all Maya lands in Toledo District, not just those of the two claimant communities, Conejo and Santa Cruz. In this context, the Government took concrete, effective steps to protect Maya customary rights by issuing a directive suspending leasing, permitting natural resource exploitation, and other land dealings in the Toledo District pending implementation of the Supreme Court judgment. The Government's revocation of the directive, limited its application to the two claimant villages in the lawsuit, and left the lands of the 36 other Maya villages in Toledo District unprotected and vulnerable to exploitation by the Government and third parties.[37]

21. Both CS and UA noted that there have been numerous infringements, violations, and expropriations of Maya lands by the Government and third parties since the Court ruling.[38] UA reported that leasing and logging resumed in Maya villages, without any consultation or consent of the villages immediately following the revocation of the directive. They noted that in practice, despite the Government's verbal commitment to create a framework though which Maya villages can establish title to the area over which they have customary rights, it continues to behave as though Maya customary property rights do not exist and Maya people are squatters on the land that they traditionally use and occupy. They also reported that the Government continues to disregard the rights of Maya communities and individuals over their land, treating the land as unburdened land for the purposes of issuing leases, grants, and concessions for natural resource exploitation, including logging and oil concessions, citing six examples.[39]

22. UA reported that a second lawsuit had been filed in the Supreme Court of Belize on 13 June 2008 in which Maya leaders requested that the Government maintain the status quo in Maya lands so that the Maya are not left with a residual patchwork of land that is inadequate to sustain the environment necessary for their physical and cultural survival by the time the government fulfils its domestic and international legal obligations to protect Maya lands in the Toledo District. The case was expected to be heard in early 2009.[40]

23. UA recommended that until an effective mechanism to identify and protect Maya customary property rights is put in place, the Government should cease and abstain from any acts that might lead the agents of the Government itself, or third parties acting with its acquiescence or its tolerance, to affect the existence, value, use or enjoyment of the property located in the geographic area occupied and used by the Maya people of Toledo, unless such acts are pursuant to their informed consent and in compliance with the safeguards of the Belize Constitution.[41]

8. Migrants, refugees and asylum-seekers

24. JS1 indicated that Chapter 156 of the 2000 revised edition of the Immigration Act, under categories of prohibited immigrants includes: "(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." Bearing in mind that engaging in sex work is not a crime in Belize, JS1 noted that the law does not explain the means by which it is to be decided which prospective applicants may fall into the abovementioned category. JS1 stated that it would thus be reasonable to suspect that age, sex/gender and the immigration officer's gender and sexual stereotypes will play a large part in enforcing that part of the law, making it therefore discriminatory and unfair.[42]

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

N/A.

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

N/A.

V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

N/A.

Notes

[1] The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a non-governmental organization in consultative status with the Economic and Social Council.

Civil society

UA	University of Arizona Indigenous Peoples Law and Policy Program, Tucson, USA.
CS	Cultural Survival,* Cambridge, USA.
GIECPC	Global Initiative to End All Corporal Punishment of Children
JS1	United Belize Advocacy Movement and the Sexual Rights Initiative, Belize (Joint submission).

[2] Sexual Rights Initiative coalition includes: Mulabi – Latin American Space for Sexualities and Rights; Action Canada for Population and Development; Creating Resources for Empowerment and Action-India; the Polish Federation for Women and Family Planning, and others.

[3] JS1, p.1.

[4] JS1, p.4.

[5] JS1, p.1.

[6] JS1, p.3.

[7] UA, p.5.

[8] JS1, p.1.

[9] JS1, p.4.

[10] JS1, p.3.

[11] JS1, p.3.

[12] JS1, p.4.

[13] JS1, p.4.

[14]GIECPC, p.2.

[15] GIECPC, p.2.

[16] GIECPC, p.2.

[17] JS1, p.4.

[18] JS1, p.4.

[19] JS1, p.4.

[20] JS1, p.2.

[21] JS1, p.2,3.

[22] JS1, p.2.

[23] JS1, p.3.

[24] JS1, p.4

[25] JS1, p.4

[26] JS1, p.5.

[27] JS1, p.5.

[28] JS1, p.5.

[29] CS, p.2.

[30] CS, p.4; UA, p. 2,3.

[31] UA, p.3.

[32] CS, p.4.

[33] CS, p.2,3; UA, p. 1,2.

[34] UA, p.2.

[35] CS, p.4,5.

[36] CS, p.5.

[37] UA, p.1.

[38] CS, p.5, UA, p. 1.

[39] UA, p.5.

[40] UA. p.5.

[41] UA, p.5.

[42] JS1, p.2.
