



PART 3

Belizean Law and YOU



Caribbean
Vulnerable
Communities
Coalition

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OBJECTIVE AND INTENDED OUTCOMES

Part three of this manual builds on the information in Parts One and Two of the Legal Literacy Manual. It provides a specific case study on relevant aspect of the Belizean legal system and framework. It aims to provide a guideline for persons in Belize. Special emphasis is placed on members of vulnerable population.

GENERAL OBJECTIVE OF THIS PART

To provide a basic refresher on the Belizean legal and court system in a bid to ensure that you can provide basic useful advice on the way forward in relation to complaints made by your users to your organization. The purpose of these modules is to provide an avenue for internal discussions about possible options within and outside of Belize to lobby for redress and changes in policy. This part is also intended to be a reference section in relation to certain material law and issues.

SPECIFIC OBJECTIVES OF THIS PART

At the end of this session you should be able to outline:

1. Be aware of the court/legal structure in your country
2. Principles civilians should understand for basic police interaction
3. How to obtain criminal remedy for breaches of your right
4. How to seek civil remedy for breaches of your right
5. How to address/maneuver specific population specific problems by utilizing lessons learnt from other organizations faced with a similar situation
6. Different government and NGO entities that can provide redress
7. Be aware of possible avenues for legal options including appeals, judicial review, declarations in Belize
8. How to engage the international institutions to seek redress or to document complaints in relation to problems engaged locally.

MODULE 15

LAWS AFFECTING SPECIFIC GROUPS IN BELIZE

POINTERS FOR KEY POPULATIONS

Every Belizean citizen has to interact with the police and other citizens on a daily basis. Based on this daily interaction some Belizean, especially vulnerable Belizean face challenges that the general public will not face.

In this section we will seek to determine:

- I. Who are vulnerable Belizeans?
- II. What challenges do they face?
- III. How are these challenges compounded by the law?
- IV. How can these be addressed?

Based on our discussions, it seems that Vulnerable Belizeans include:

- A. Sex Workers
- B. People Who Use Drugs
- C. Marginalized Youths
- D. Lesbians, Men who have sex with Men, Bisexuals
- E. Trans Persons
- F. Migrant Population
- G. Women
- H. Persons with disabilities

Challenges faced by specific groups include:

- 1. Discrimination by members of the general population
- 2. Diminished job opportunities
- 3. Loss of family life/alienation from family
- 4. Harassment by law enforcers and the Court
- 5. Greater potential to being arrested, assaulted
- 6. Unequal access to justice and the legal system
- 7. Barriers to accessing health services.
- 8. Lack of protection from the Legal & Political systems

DISCUSSION POINTS

Please discuss the following amongst your group and try to find answers to the following questions:

- A. Who are vulnerable Belizeans?
- B. What challenges do vulnerable persons face?
- C. How can these challenges be addressed?

LAWS AFFECTING KEY POPULATIONS



LESBIANS, MEN WHO HAVE SEX WITH MEN & BISEXUALS (LGB)

Laws affecting LGB include the express provisions such as **The Criminal Code Sections 53** which sought to criminalize consensual sexual intimacy between adult men in private. The Criminal Code has provisions which are understood to state that it is a crime for a male person to have sex with another male person.

Criminal Code of Belize

53. Every person who has carnal intercourse against the order of nature with any person or animal shall be liable to imprisonment for ten years.

NB: This law was read down by the Supreme Court decision in Caleb Orozco. It is still relevant because Belizeans are still reeling from the effects of the social acceptance of this law which was not 'read down' or 'obliterated' by a Court judgment.

The law affects LGB by its failure to expressly:

- I. prohibit certain discriminatory behaviour by members of the public.
- II. include MSM and sexual orientation as protected groups in the Constitution under the Articles that deal with discrimination.

The decision in Caleb Orozco clarified that:

1. The above section does not apply to consensual relationships between adults.
2. Sexual Orientation is included in the definition of the word Sex and is therefore a protected class under the Belizean Constitution.

The decision is being appealed and may be finally determined by the Court of Appeal.

DISCUSSION POINTS

- A. What is the implication of the Caleb Orozco decision on the gay community?
- B. How does this decision affect society's acceptance of gay persons?
- C. Is this decision accepted by the church?
- D. Is this decision accepted by the Police?
- E. Are gays more likely to report crimes against the community after the passage of this decision in Belize?

SEX WORKERS, PROSTITUTION

Law affecting Sex Workers include the **Summary Jurisdiction (Offences) Act** which states:

The SJO makes it a criminal offence for:

- A. A sex worker to carry out his/her work [section 4]
- B. Knowingly living off the earnings of prostitution [sec. 18]
- C. Persistently soliciting for an immoral purpose [Sec. 4 (ix)]
- D. Persons to rent room to a 'prostitute' [Sec. 15 (1)]

Petty Offences

4.-(1) A person who -

(ix) being a common prostitute or night-walker loiters or is in any street or public place for the purpose of prostitution or solicitation to the annoyance of the inhabitants or passengers or behaves in a riotous and indecent manner;

18.-(1) A person who being a male person, knowingly lives wholly or in part on the earnings of prostitution; or being a male person, in any public place persistently solicits or importunes for immoral purposes; or loiters about, or importunes any person in any street or other place for the purpose of prostitution.

(xxix), (xxx – i.e. being a common prostitute wanders in any street) and (xxxi) of section 4 (1) shall be deemed an idle and disorderly person.

Our Comments on the Law

The said sections seek to ostracize sex workers by criminalizing the renting of any premises to sex workers. The said sections seek to prevent a sex worker from engaging in the sex trade. It legislates against the customers soliciting or importuning for immoral purposes and prevents the prospective worker from loitering about or importuning any person in the street or other public place for the purpose of prostitution. The said sections seem to be silent on bedroom prostitution. It does not expressly criminalize being a prostitute. It only criminalizes 'common prostitute' behaviour, conduct and sex work.

The text of the law is quoted for your information:

Belize Criminal Code

49. Every person who procures or attempts to procure-

(a) any female under eighteen years of age, not being a common prostitute or of known immoral character, to have unlawful carnal knowledge either within or without Belize with any other person or persons; or

(b) any female to become, either within or without Belize, a common prostitute; or

(c) any female to leave Belize, with intent that she may become an inmate of or frequent a brothel; or

(d) either within or without Belize, any female to leave her usual place of abode in Belize (such place not being a brothel), with intent that she may, for the purposes of prostitution, become an inmate of or frequent a brothel either within or without Belize, shall be liable to imprisonment for five years

Section 50 – procuring defilement of female by threats or fraud or administration or drugs

50. Every person who-

- (a) by threats or intimidation or any other method of compulsion, procures or attempts to procure any female to have any unlawful carnal knowledge, either within or without Belize; or*
- (b) by false pretence or false representation, procures any female, not being a common prostitute or of known immoral character, to have any unlawful carnal knowledge, either within or without Belize; or*
- (c) applies, administers to, or causes to be taken by, any female any drug, matter or thing, with intent to stupefy or overpower her so as thereby to enable any person to have unlawful carnal knowledge with such female, shall be liable to imprisonment for three years.*

Summary Jurisdiction (Offences) Act

“brothel” means a place where people of opposite sexes are allowed to resort for illicit intercourse, whether the women are common prostitutes or not and includes a common ill-governed or disorderly house.

Suppression of Brothels

15.(1) A person who -

- a. keeps etc ... a brothel; or*
- b. being the tenant etc of any premises, knowingly permits such premises ...to be used as a brothel; or*
- c. being the lessor etc ... lets the same ...with the knowledge that such premises ...to be used as a brothel; or being the lessor etc ... is wilfully a party to the continued use ...as a brothel, , is guilty of an offence and is on summary conviction liable-*
 - (i) in the case of a first conviction, to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months; and*
 - (ii) in the case of a second or subsequent conviction, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding twelve months.*

Belize Summary Jurisdiction (Offences) Act 1953, Cap. 98:

Vagrancy

7. A person committing any of the offences mentioned in paragraphs (xxix), (xxx – i.e. being a common prostitute wanders in any street) ...shall be deemed an idle and disorderly person.

Householder Permitting defilement of young females on his premises

51. Every person who, being the owner or occupier of any premises, or having, or acting in, or assisting in, the management or control thereof, induces or knowingly suffers any female of such age as is in this section mentioned to resort to be in or upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally, shall- (a) if such female is under the age of twelve years, be guilty of felony, and being convicted thereof be liable to imprisonment for life; and (b) if such female is of or above the age of twelve and under the age of sixteen years, be liable to imprisonment for two years.

Sex Workers are Prohibited Immigrants

The Immigration Act also clearly states that sex workers are prohibited immigrants. This means that they can be prevented from visiting Belize.

If a sex worker tries to come to Belize and declare his/her occupation as a 'prostitute' he/she may be ordered to leave the Island or prevented from even leaving the plane or vessel in which they arrive. She/he may also be arrested and brought before a court for a Judge to order her/him deported to his/her home country.

This law is still on our law books and can be enforced by immigration officers. It provides opportunity for immigration officers to 'probe' persons whom they may believe are sex workers. It provided the avenue for abuse of persons such as Shanique Myrie's right.

If the immigration officer believes that someone is a sex worker, this person may be arrested and placed in a cell like a common criminal. The perceived sex worker could also be prevented from entering or leaving the island.

Immigration Act, 1958 (revised 2000)

5. - (1) The following persons are prohibited immigrants-
(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;

15. ...No person (a) who is a prohibited immigrant...shall enter or remain in Belize.

The aforementioned sections are self-explanatory.

ADVISE

Ms. Cherry, the president of the Sex Workers Association visits your office to find out what are your views on the issue of whether the above laws unconstitutionally target sex workers. Using your knowledge of the above laws, express your views on whether the above laws are unconstitutional?

Do you think that the laws should be changed to protect the health and human rights of sex workers? Give reasons for your view.

PEOPLE WHO USE DRUGS

Misuse of Drugs Act 1990 (revised edition as of 2000) makes provision which prohibits possessions of and trafficking in narcotics and cultivation of certain plants in Sections 3 – 14 regarding dangerous or otherwise harmful drugs. It provides for the forfeiture of proceeds of drug trafficking assets. It further gives birth to the National Drug Abuse Control Council that works toward the prevention of misuse of drugs.

7.-(1) Subject to any regulations under section 9 for the time being in force, it shall not be lawful for a person to have a controlled drug in his possession.

(2) Subject to subsection (5) below and to section 51, it is an offence for a person to have a controlled drug in his possession in contravention of subsection (1).

(3) Subject to section 51, it is an offence for a person to have a controlled drug in his possession, whether lawfully or not, with intent to supply it to another in contravention of section 6 (1).

(4) Subject to subsection (1), a person found in possession of the following controlled drugs in quantities of more than-

(a) two grammes of diacetylmorphine (heroin);

(b) one gramme of cocaine;

(c) thirty grammes of opium;

(d) three grammes of morphine; or

(e) sixty grammes of cannabis or cannabis resin, shall be deemed to be in possession of such controlled drug for the purpose of supplying it to another for drug trafficking in contravention of section 6 (1) unless the contrary is proved, the burden of proof being on the accused.

(5) Where any drug to which this Act applies is found in any premises occupied by more than one person, such drug shall be deemed to be in the joint possession of all such persons and it shall be for the said person or persons to prove that it was there without his or their knowledge or consent; and for the purposes of this Act, occupation of any premises may be real or constructive.

(6) A person guilty of a drug trafficking offence under this section shall be liable to the penalties laid down for a drug trafficking offence in section 18, and for any other offence, to the penalties laid down in section 28.

The Third Schedule of the misuse of Drugs act list the applicable sentences.

<u>THIRD SCHEDULE</u> <u>PROSECUTION AND PUNISHMENT OF OFFENCES</u> <u>(OTHER THAN DRUG TRAFFICKING OFFENCES)</u> (SECTION 28)						
<i>Section Creating Offence</i>	<i>General Nature of Offence</i>	<i>Mode of Prosecution</i>	<i>P U N I S H M E N T</i>			
			<i>Class A Drug Involved</i>	<i>Class B Drug Involved</i>	<i>Class C Drug Involved</i>	<i>General</i>
Section 7 (2) (except drug trafficking offence)	Having possession of a controlled drug (other than for drug trafficking)	Summary	5 years or \$100,000, or both.	3 years or \$50,000, or both	2 years or \$40,000 or both.	

Section 28 – prosecution and punishment of offences – 3rd Schedule - Rehabilitation

(6) Notwithstanding anything contained in this Act, in the case of an offence under this Act other than a drug trafficking offence, where the convicted person is a first time offender and is proved to be addicted to drugs, the court shall pass a suspended sentence and refer the convicted person to a drug rehabilitation centre for treatment on the condition that if such person shall leave the rehabilitation centre before the completion of the treatment, or shall otherwise misbehave, he shall be required to serve the sentence passed on him.

ADVISE

Paul a person who is addicted to drugs is arrested and charged for the offence of possession a very small spliff of ganja in your capital city. He states that he uses the drugs for his own use. His next court date is two weeks from the date he sees you. He wants advise on what he should do in court. He cannot afford a lawyer.

Advise Paul.

PERSONS WITH DISABILITIES

The Belizean Constitution specifically prohibits discrimination against persons with disabilities. Under Section 16 of the Constitution, disability is included as one of the protected class. A person with disability will be able to rely on the anti discriminatory clause if they are the victims of discrimination.

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 subsection (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.

You may recall that on the list of Ratification, Reporting and documentation for Belize, that Belize became a signatory to the United Nations Convention on the Rights of Persons with Disabilities on the 09 May 2011 and ratified the Convention on the 02 June 2011. This means that persons with disabilities have protection in both local laws (the constitution) and international treaties.

DISCUSSION

- A. Provide three top policy reasons for government inclusion of proper laws to protect the disabled Belizean.
- B. Provide three top policy reasons for government exclusion of proper laws to protect other vulnerable group of Belizean.

ACTIVITY

1. Please state specifically the different laws affecting the following groups:
 - a. MSM
 - b. Transexuals
 - c. People Who Use Drugs
 - d. Sex Workers
 - e. Persons with disabilities

2. David Smith a person with disability applied for a job as a receptionist at Free For All Institute. He was the top student in his receptionist class. His best friend Ruddy Manners also applied for the job. Ruddy came 20th in the class of 20 students. They were both given phone interviews. David was advised that he would be offered a job if he brings proof of his certification and they can agree on salary. He wanted \$46,000 a month. They were only prepared to offer him \$42,000. He was told to come and speak with the chairperson of the Institute Ms. Volda Manners. Once he arrived for the interview in his wheelchair he was told that they can not employ him since the institute can't accommodate a cripple. He was told to go home. Whilst he was at home mulling his next actions. He received an elated call from Ruddy Manners who called to advised that he was the new receptionist at Free For All Institute and that he would be getting the whopping salary of \$60,000.00

David Smith approaches you for advice. Advise David Smith of his options.

MODULE 16

TIPS FOR INTERACTION WITH THE BELIZEAN LAW ENFORCEMENT OFFICIALS

INTERACTION WITH THE POLICE

- I. Being approached by the Police
- II. Being questioned by the Police
- III. Stopped by the police when driving
- IV. What to do when being searched by the police
- V. What to do if mistreated by the police
- VI. What to do when receive unjust traffic ticket/charge

WHAT DO I DO WHEN I AM APPROACHED BY THE POLICE?

1. **Stay calm and do not run away.** It may be best to stand/sit exactly in the same position you were when the officer starts to approach you. If you run away, it may make you appear guilty and may also provide the officer with a lawful reason to arrest or shoot you.
2. **Be polite as possible.** It may be best to greet the officer with a greeting. This would be helpful in diffusing any potentially explosive scenario. It is important to ensure that you show no hostility towards the officers. The showing of hostility may escalate a situation.
3. **Tell the officer your name and try to get his name, identity or any reference number** that you can use to identify him if the situation escalates.
4. You should also seek to **record the licence plate number or any special number or reference number being worn by the officer.** Examine your surroundings and record the name and faces of any witnesses in the event you may need it.
5. You could also **ask the officer to produce their identification card or to indicate their name and the police station/department that they are attached or assigned to.** This information is particularly necessary if the officer is in plain cloths and has no other visible identifying or reference information.
6. **Listen carefully to every word spoken by the officer.** If the situation becomes tenuous you may be requested to repeat EXACTLY what you were told.
7. If you have a reason to feel mistreated, you should **make a note of everything that occurred and was said to you by the officer.** This note may take the form of a written statement, a voice note sent to a dear friend which is saved for future reference.
8. Please note that **you have the right not to answer any self-incriminating questions and to seek legal assistance before you are questioned by the police.**

WHAT SHOULD I DO IF I AM BEING QUESTIONED?

1. If the officer is asking you basic questions in relation to your identity and address, It may be best to answer these questions.
2. If the questions are in relation to a specific offence, You may clearly but in a respectful tone, ask the officer to indicate whether you are a suspect in the commission of a specific crime.
3. If the Officer indicates you are a suspect, you may ask him to allow you to call a lawyer or a friend to indicate where you are at the material time.
4. You may then ask if he intends to charge you with the relevant offence or if he intends to gather evidence from you to charge you.
5. If you feel your actions have been misunderstood, you may clarify any ambiguity and seek to diffuse the situation.

SEARCH

1. The police do not have an automatic right to stop and search citizens. Generally, there must be some action, activity or information that caused them to form a reasonable suspicion that a crime has been committed, is being committed or is about to be committed that will trigger their right to search citizens.
2. You may ask the officer to state what is the reason for the search BEFORE he commences searching your property or person.
3. If the officer refuses to state the reason, you may in a firm and polite voice indicate to them that you would require the reason for the search to determine whether you can consent to same.
4. If they still refuse to provide the reason, you may indicate to them that you will not consent to the search. If they provide the reason and you do not think that they have a right to search you, you can in a firm and polite voice refuse any request for a search. You should record the names of any witnesses who see and hear your refusal in relation to the search.
5. If they still proceed to search you, remain calm. Do not give them a reason to arrest you. Be careful that you do not twitch or 'box off' their hand as this may be construed as 'assaulting the police' and may provide a basis to arrest you for resisting arrest.

SEARCH WARRANT

1. If the officers state that they are searching your premises pursuant to a warrant, you have the right to see and read the search warrant.
2. Demand to see it and ask for a copy of it. If they don't have a copy available ask for permission to take a picture of the warrant.
3. Once the officers have a search warrant, you could enquire what their powers pursuant to the warrant are. Even if they refuse to answer this, once they have a warrant they should be allowed to enter the premises to conduct the search. If you refuse permission, they can simply use force to gain entry to the premises.
4. It may be wise to remain in the presence of the officers conducting the search at all times.
5. Do not answer any police questions while they are searching your premises. Your answer may provide the basis for an arrest.
6. If the officer finds any illegal or suspicious items on the premises, they may use it as a basis to arrest you.

WHAT TO DO WHEN YOU ARE BEING ARRESTED

1. If you are arrested or about to be arrested asked the officer to indicate the basis for the arrest.
2. You should co-operate. Do not resist arrest. Do not become violent or aggressive. Remain calm, polite and show self-control. Even if you think you have been wrongfully detained and the officer does not show you the respect that is due to you as a citizen, keep calm and continue to show restraint and self-control. Keep a mental note of everything that happens. You may take action against the officer later.
3. Do not 'twitch' nor make any physical contact with the police. Please note that officers often seek to trigger a lawful basis for arrest by the virtue of 'apprehending you'. The officers may then charge you for resisting arrest or any of the related offences.
4. Ask the officer to indicate the reason for the arrest either before, during or after the arrest. He **MAY** also indicate that you are entitled to legal representation.

5. You may ask for a moment to call a friend or a lawyer. This may be helpful in securing your early release.
6. Record everything that takes place after your arrest.
7. You have the right to refuse to answer questions until your legal representative is present. If you cannot afford a lawyer, you can apply for legal aid.
8. If you are carried away from where you were in a police vehicle, ask a friend or bystander to take down the licence number of the vehicle and tell your family.
9. Obtain the name and rank of at least one of the officer who is arresting you.
10. Ask for a phone call or ask to send a message or a note right away and keep asking until you can reach someone. Let them know what has happened and where you are.
11. You should be taken to a station or police lock-up or, if injured, to the hospital
12. Whilst you are at the station, you may be granted station bail.
13. If you are not granted station bail, you are taken into custody and put in police lock-up until you appear in court
14. The final decision about granting or denying you bail lies with the Court
15. You should note the time of your arrest and the time of your release.
16. As soon as you are released make written notes in relation to the reasons for your release and the length of your detention.

WHAT TO DO AFTER YOU ARE ARRESTED?

17. Verify that you are under arrest by confirming that you are NOT free to leave the police compound/presence. The police have the right to hold you for **up to 72** hours before they charge you.
18. Ensure that you are advised of the charge/reason for your detention. If the police fail to provide same, please ensure that you request the reason for your detention.
19. Ensure that you ask for phone call or to make phone call. You should then call either a family member or trusted friend or lawyer to advise them of your location and to request that they visit you.
20. Ensure that you ask to see a doctor if you are in problem. This request should be noted by the police. If you do not receive medical attention, your family/friends may seek to engage a medical doctor who may visit you at the holding area. This Doctor may be required to carry proof of his accreditation and an official ID from the relevant accreditation entity.
21. Ensure that you ask if bail would be offered to you. If bail will not be offered ensure that you find out the basis for the refusal of bail.
22. If you are of the view that you are being wrongfully denied bail, ask to see a Justice of the Peace.

GETTING BAIL

1. If you are arrested, you may be granted bail by the police. Section 18 of the Police Act makes it lawful for any superior officer or any non-commissioned officer or constable in charge of a police station, when any person is in custody without warrant for any offence punishable upon summary conviction to take bail for the appearance of such persons before the nearest court of summary jurisdiction at a day, time and place to be named in the recognisance.
2. Bail is a temporary release on the condition that you will attend court on your court date. This risk may be secured by certain conditions such as the requirement that you produce a sum of money or travelling document to secure your appearance in court.

3. Bail - on your own recognizance (that means you are known by the officer and can be trusted to appear in court) or someone will have to agree to swear that you will not run away and you will appear in court as scheduled. This means that the person stands 'surety' for you. Under the Bail Reform Act, you could seek the services of an official bondsman to assist you to meet the bail amount.

STOPPED BY THE POLICE WHILST DRIVING?

1. You must stop when requested by a police officer to stop.
2. Show restraint and remain calm, even if you believe the police have stopped you unnecessarily.
3. Apart from giving your name and address and showing your licence, you can refuse to answer other questions from the Officer. Please note that failure to give your name and address is an offence in Belize pursuant to section 105 (2) of the Motor Vehicles and Road Traffic Act.
4. Please note that section 105 (3) of the Motor Vehicles and Road Traffic Act: ***Any police officer may arrest without a warrant the driver or conductor of any motor vehicle who within his view commits an offence under this Act or under the regulations, unless the driver or conductor either gives his name and address or produces his licence for examination.***
5. If the police officer behaves in an unprofessional manner, write down or try to remember his/her badge number, name, vehicle registration plate or other identifying marks, should you need to make a complaint
6. In the event that you are not in possession of your driver's licence, offer to provide some other form of identification.
7. The officer is also empowered by law to take a specimen of breath for a breath test where he has reasonable cause to suspect that your alcohol level is higher than the prescribed level.
8. If police ask to search your vehicle, you can refuse consent if they fail to provide a reasonable basis for the search. The police do not have the right to search your vehicle as a matter of routine.
9. If you refuse consent to the search, you must ensure that you avoid engaging in physical resistance against the police.

REPORTING CRIME TO THE POLICE

1. To report a crime, simply visit a police station . It may be best to call in before visits – and to give idea of the nature of the complaint to the officer who answers the call and also to advise them that you are coming. It may be best to get an idea as to which officer will take your complaint before you enter the station.
2. Ask for written confirmation of statement, some officers will photocopy same and others will allow you to take picture of same
3. Ask what is the next step and who is responsible for your case
4. Ask when can you call the respective officer to check up on progress of case or to provide additional information
5. Remember to be polite and firm since a soft answer may turneth away wrath whilst grievous words may stir up anger.

ACTIVITY

Divide the group into four separate units. Each unit is asked to review the following questions and present to the entire group.

You are an upright citizen of your country. You are driving a car when the police officers stopped you and tell you that they want to randomly search the car. You ask them to produce their ID. They refuse and instead demand that you produce your ID. You do not have a copy of your identity on you and remark that you can produce it within 24 hours at the nearest police station. The police then order you out of the car and say that they will randomly search your car. You refuse the search after you came out of the car. They then demand a search of your person and then start to search you. You resist and you are arrested for assaulting a police officer. You are released within 4 hours of your arrest without charge.

Please consult with your group on the best way that you should deal with this problem. Please then explain to us how you will deal with the problem.

MODULE 17

LEGAL REMEDIES IN BELIZE

BRIEF CONTENTS OF MODULE

- I. Court structure and framework in Belize
- II. Legal options in Belize

WHAT TO DO IF YOU ARE BEING MISTREATED?

It is important to know the possible options that you can take if you are being mistreated or abused by Police Officers. The most important thing is to keep calm and to try your best to not assist the police in escalating the situation. It is best to ensure that you try your best to comply first and then complain later.

Please ensure that you try to document the name of the relevant offending officers or any other information that can be used to identify them later.

CALL THE FOLLOWING ENTITIES TO CONTACT FOR HELP:

The Ombudsman

The Office of the Ombudsman was established on the 8th July, 1999. The function of the Ombudsman is to investigate complaints made by any person or body of persons who claim to have sustained injustice, injury, or abuse (including any act of discourtesy, or refusal to act, or any act motivated by discrimination based on religion, language, race, colour or creed), or who claims that an authority has been guilty of corruption or other wrongdoing.

Contact Information

ombudsman@btl.net

Ombudsman of Belize

The Office of the Ombudsman

#60 Corner Douglas Jones & Castle Streets Belize City, Belize, C.A.

Telephone: 501-22-22594 or 501-22-33198

Fax: 501-22-33198

Legal Aid Services

Legal Aid services are meant for persons who cannot afford an attorney. Most legal aid services conduct a 'means' test to find out whether or not the persons applying for a legal aid lawyer is able to afford the services of a lawyer. To determine this issue, the legal aid authority would often examine the applicant's financial means and other criteria. It is necessary for you to contact the closest legal aid provider to get further information. Many non-governmental organizations are also able to provide either legal services or some directives as to how you can get legal assistance. Some of the more popular bodies are included below:

Legal Aid Center

On November 27, 1981, the Legal Aid Center was opened in Belize City to serve the legal needs of the poor. The Center administers legal aid and provides legal advice, assistance, referral and representation for those who are eligible. The center is geared towards low-income persons who meet eligibility guidelines and handles a full range of case types and services. General cases include family, land, civil and estate matters.

Murder, civil matters that exceed \$20,000, and company and other commercial matters are excluded from the center's jurisdiction.

The type of service provided by the center depends largely on the type of legal problem facing the individual client. Most clients get immediate advice on their problem, including things they could do in order to resolve the problem on their own. Others are referred to an agency or service which can more appropriately resolve their immediate crisis or long-term problems.

The Center is governed by a local Board of Directors. While initially 51% of this Board was comprised of Bar Association Members, today the Bar Association makes up the entire Board. While the Center is usually staffed by one full-time attorney, a secretary, and an office manager, at present only an office manager is on staff at the Center. The Bar Association has plans to implement a mandatory roster system at the center to ensure that an attorney is present at all times.

The Legal Aid Center was initially funded by the United States Agency for International Development (USAID), the Caribbean Justice Improvement Project (CJIP), the Canadian University Services Overseas (CUSO), and the Canadian International Development Agency (CIDA). Today, the Center is funded completely by the Bar Association. There is also a \$20 consultation fee, which is discretionary and is based on the matter at hand and the person's financial capability. This assists with the operational expenses.

The Legal Aid Center is located in the Sir Albert Staine Building, 1 Treasury Lane, Belize City.

Supreme Court's Legal Aid

In capital cases, legal aid is provided by the Registrar of the Supreme Court. In such cases, the Registrar appoints an attorney to act on the accused's behalf. The maximum fee paid to such attorney is \$1,000 BZE, which covers a retainer fee as well as a per diem allowance.

Attorney : Mr Anthony Sylvertre - LLB (Hons.)

Address: Sir Albert Staine Building, 1 Treasury Lane, Belize City

Phone: (501) 223-3443

Fax: (501) 223-3443

Email: lib@btl.net

Ministry of the Attorney General

General Office, Belmopan

Telephone# (501) 822-2504 Fax# (501) 822-3390 <http://belizelaw.org/web>

Legal Advice and Services Centre

Telephone# (501) 227-3442 | 501-207-2991

Fax# (501) 227- 0581 lib@btl.net

Professional Standards Branch, Police Department

Contact Information

Police Headquarters,
Young St., Eve Leary ,
Georgetown, Belize
Telephone: 592-226-62487/8

National Human Rights Commissions of Belize

Background:

The Human Rights Commission of Belize [HRCB] was founded on December 10, 1987. Membership is comprised primarily of educators, economists, accountants and journalists.

Objectives:

Its objectives are: to promote and defend human rights in Belize; to establish and maintain the institutions and mechanisms for this defense and promotion; to ensure ratification of, and adherence to, the international covenants on human rights by the government of Belize; to promote an awareness of human rights through the incorporation of human rights within the curriculum of the education system in Belize; and to establish relationships with national and international organizations engaged in defense and promotion of human rights in the world in general, and in the region, in particular.

Activities:

In addition to undertaking fact-finding missions on human rights violations, the Commission provides legal and humanitarian aid to political prisoners and other victims of human rights violations. It also investigates cases on labour conditions. It develops teaching materials, offers formal courses and holds training seminars in human rights education. This has included educational programs for refugees and displaced persons; programs for the police; and to promote awareness of national human rights issues, such as women, religion, capital punishment, and economic, social and cultural rights.

Other Civil Society Organizations

- a. Belize Human Rights Association
- b. Belize Trans United
- c. Society Against Sexual Orientation Discrimination
- d. Belize Equality Forum

LEGAL REMEDIES

The appropriate remedy for each case is dependent on the duty the person owed to the injured party as well as the nature of the said breach of the duty. For example, if Tom Strokes is wrongfully detained by Officer Big Stick for 14 days without being advised of his remedies.

This would clearly be in breach of the law.

What are the Possible Remedies

There are numerous remedies available for breach of citizen's rights in Belize. These remedies include:

- a. Declarations,
- b. Damages (monetary compensation),
- c. Judicial Review Remedies
- d. Protection orders,
- e. Occupation orders and
- f. Other court orders.

These orders are available after the aggrieved party or their representative petitions the respective court to seek these orders.

LEGAL SYSTEM

Belize is a constitutional democracy. The Constitution of Belize is the supreme law of Belize. On attaining independence in 1981, Belize adopted a Constitution which was amended in 2011. The constitution is the document that protects our fundamental rights.

In the Preamble of the Constitution It is stated that:

WHEREAS the people of Belize- (a) affirm that the Nation of Belize shall be founded upon principles which acknowledge the supremacy of God, faith in human rights and fundamental freedoms, the position of the family in a society of free men and free institutions, the dignity of the human person and the equal and inalienable rights with which all members of the human family are endowed by their Creator;

According to Section 2 of the Constitution ('the Supremacy of Constitution'), it is the supreme law of Belize and if any other law is inconsistent with it, that other law shall, to the extent of the inconsistency, be void.

The constitution sets out the fundamental rights that the states and its agents agree that every citizen has the right to. These rights should not be violated. If they are violated, citizens can apply under the constitution for the courts to declare that their rights were violated. Citizens are entitled to seek monetary compensation for any violation.

The section of the Constitution relating to the protection of Human rights is captured in Part II:

Protection of Fundamental Rights and Freedoms of the Individual

4. 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.

Protection of the law

6.- (1) All persons are equal before the law and are entitled without any discrimination to the equal protection of the law

Section 16 guarantees freedom from discrimination stating:

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.

Discrimination is defined in Section 16 (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.

Also of note are the following Sections of the Constitution:

PART II Protection of Fundamental Rights and Freedoms

1. Fundamental rights and freedoms.
2. Protection of right to life.
3. Protection of right to personal liberty.
4. Protection of law.
5. Protection from inhuman treatment.
6. Protection from slavery and forced labour.
7. Protection from arbitrary search or entry.
8. Protection of freedom of movement.
9. Protection of freedom of conscience.
10. Protection of freedom of expression.
11. Protection of freedom of assembly and association.
12. Protection of right of privacy.
13. Protection of right to work.
14. Protection from discrimination on the grounds of race, etc.
15. Protection from deprivation of property.
16. Provisions for periods of public emergency.
17. Protection of persons detained under emergency laws.
18. Protection of persons detained under emergency laws.

Enforcement of protective provisions

20.-(1) If any person alleges that any of the provisions of sections 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 who is 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.

COURT STRUCTURE AND FRAMEWORK IN BELIZE

Belize's legal system is represented in the executive by the Ministry of Legal affairs. Belize's court structure is as follows:

- a. Caribbean Court of Justice
- b. Court of Appeal
- c. Supreme Court
- d. Magistrates' Court
- e. Family Court

Family Court

The Family Court is a court established by the Family Courts Act (section 3) to adjudicate on family matters within the jurisdiction of the district family court which shall extend throughout its respective judicial district. Every district family court shall comprise of the magistrate of the judicial district where the offence, cause or matter arose. The Belize Family Court was established on April 1, 1989.

Magistrates' Court

The Magistrates' Courts are the largest courts in Belize in relation to the volumes of cases it would hear on any given day. The Section 3 (1) of the Inferior Courts Act (Chapter 94 of the Laws of Belize) provides for the jurisdiction of the Magistrate's Court to be administered in the following Judicial Districts.

1. The Belize Judicial District,
2. The Toledo Judicial District
3. The Stann Creek Judicial District
4. The Cayo Judicial District
5. The Orange Walk Judicial District
6. The Corozal Judicial District

Cases are presided over by Magistrates who have jurisdiction to hear criminal and civil matters where the possible remedy/fine would be below a certain sum. For example the magistrates are empowered to hear cases of minor assault, petty theft, abusive language, landlord and tenant claims and claims for debts under \$25.00.

There are Magistrates' Courts in every county and most of the cases brought by the police and individuals are heard in them. A person may, however, bring a private criminal action in the Magistrates' Court.

This court also conducts hearings into the merits of charges for indictable offences such as rape, manslaughter, murder and treason. The Magistrate, after hearing and assessing the evidence led before him, may commit the accused to stand trial in the High Court. If insufficient evidence was found to have been led, then the accused would be discharged. This discharge is not an acquittal. Charges may again be brought against a person for the same alleged offence.

Supreme Court

The Supreme Court of Belize is duly constituted under section 94 of the Constitution of Belize. The Court has jurisdiction to hear civil and criminal matters as well as appeals from the lower Courts. The Court is headed by the Chief Justice and currently consists of 8 other Justices of which 4 are assigned to the civil division (includes matrimonial and family matters) and 4 to the criminal division of the Court. The Chief Justice sits in both criminal and civil divisions.

Court Of Appeal

The Court of Appeal of Belize was established under section 94 of the Constitution of Belize, and Chapter 4 of the Laws of Belize, Revised Edition, 2000. It exercises an appellate jurisdiction with power to hear and determine appeals in both civil and criminal matters. This Court sits in March, June and October.

Caribbean Court of Justice

This is the final appeal Court in Belize. It hears both civil and criminal appeals which emanates from the Belizean Court of Appeal.

CASE STUDY:

Caleb Orozco v The Attorney General of Belize and Ors, Claim No. 668 of 2010

Caleb Orozco is a gay Belizean that successfully challenged the constitutionality of Section 53 of the Criminal Code 1981 of Belize that essentially criminalized consensual sex between two consenting adults. Section 53 states that 'every person who has carnal intercourse against the order of nature with any person or animal shall be liable to imprisonment for ten years.' The claim is a challenge to the constitutional validity of section 53 of the Belize Criminal Code to the extent that it operates to criminalize anal sex between two consenting male adults in private.

The grounds of the claim as set out in the Fixed Date Claim are as follows:

1. The accepted statutory interpretation of 'carnal intercourse against the order of nature' is that Section 53 of the Criminal Code criminalises anal sex between two consenting male adults in private.
2. In the premises, and in the light of the preamble to the Constitution of Belize which recognises "the dignity of the human person and the equal and inalienable rights with which all members of the human family are endowed by their Creator", section 53 violates
 - i. The right to the recognition of human dignity guaranteed by section 3 (c) of the Belize Constitution;
 - ii. The right to the protection for personal privacy guaranteed by section 3 (c)
 - iii. The right to the protection of the privacy of the home guaranteed by section 3 (c)
 - iv. The right not to be subjected to arbitrary or unlawful interference with privacy or unlawful interference with privacy guaranteed by section 14 (1)
 - v. The right to respect for private life guaranteed by section 14 (1); and
 - vi. The right to the equal protection of the law without discrimination guaranteed by section 6 (1)

The Claimant noted in his affidavit in support of Fixed Date Claim Form that the criminalization of sex between consenting adult men causes many men who have sex with men to shun testing and treatment of HIV/AIDS because of the stigma and discrimination against gay men in the society. This was supported by numerous expert evidence which showed the social impact of criminalization of anal sex.

The Court held that in breach of Section 6 (1) and 16 (1) and (3) of the constitution, the Claimant was discriminated against on the basis of his sexual orientation and that no evidence has been led to show that such discrimination is justifiable.

The Court also declared that Section 53 of the Criminal Code, contravenes sections 3, 6, 12 and 16 of the Belize Constitution to the extent that it applies to carnal intercourse against the order of nature between persons. The Court exercised its power to revise the section to bring it into conformity with the constitution and added a clause which states that 'This sections shall not apply to consensual sexual acts between adults in private'.

Chief Justice Kenneth Benjamin also clarified that "sex" as mentioned in Section 16(3) of the Constitution, includes sexual orientation. Therefore, the Constitution of Belize prohibits discrimination on the basis of sexual orientation

ACTIVITY

Divide the group into four separate units. Each unit is asked to review the following questions and present to the entire group.

Whilst at your office, Ms. Tom Strokes attends stating that she was arrested by the Police for wearing a dress in the middle of the town. She wore the dress simply because it her best way to express how she feels inside. She has always worn dresses whilst inside her house because she prefers to wear female attire despite being born a male. She simply took a stroll down Georgetown and was seen by Officer Nuffy who decides to arrest her as part of his personal bid to crack down on cross dressers.

Ms. Tom Strokes is kept in custody for more than six days without being charged or advised as to the reason for her arrest. She tells you that she asked numerous times to be advised of the reason for her arrest but was never told the reason for the arrest until she was being released and told she needs to come and explain to the Chief Magistrate why she is wearing woman's clothes.

Her matter is before the court. She is to appear in the Magistrate Court within 14 days. Ms. Tom Strokes attends your office. She wants to know what she should do in court. She also wants advice on how she can assist to ensure that this type of police action does not continue to occur without being noted.

Advise her.

MODULE 18

LEGAL OPTIONS OUTSIDE OF BELIZE

Persons aggrieved by decision of Belizean authority or state may also take up their grievances with international bodies which monitors any of the rights conventions to which Belize is a party. Aggrieved persons may not be able to present their individual complains to every institution but at a minimum they could engage local NGOs who could document the specific problem and report them by meeting with or submitting information to a rapporteur/commission/committee. They can use the Committee report/concluding observations to educate the public/press. This can raise awareness of a human rights problem and increase pressure for action.

See the following Ratification, Reporting & Documentation for Belize

Treaty	Signature Date	Ratification Date, Accession(a), Succession (s) Date
CAT - Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment		17 Mar 1986 (a)
CAT-OP - Optional Protocol of the Convention against Torture		04 Sep 2015 (a)
CCPR - International Covenant on Civil and Political Rights		10 Jun 1996 (a)
NCCPR-OP2-DP - Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty		
CED - Convention for the Protection of All Persons from Enforced Disappearance		14 Aug 2015 (a)
CEDAW - Convention on the Elimination of All Forms of Discrimination against Women	07 Mar 1990	16 May 1990
CERD - International Convention on the Elimination of All Forms of Racial Discrimination	06 Sep 2000	14 Nov 2001
CESCR - International Covenant on Economic, Social and Cultural Rights	06 Sep 2000	09 Mar 2015
CMW - International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families		14 Nov 2001 (a)
CRC - Convention on the Rights of the Child	02 Mar 1990	02 May 1990
CRC-OP-AC - Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	06 Sep 2000	01 Dec 2003
CRC-OP-SC - Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography	06 Sep 2000	01 Dec 2003
CRPD - Convention on the Rights of Persons with Disabilities	09 May 2011	02 Jun 2011

INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR, 1966)

The ICCPR is a multilateral treaty adopted by the United Nations and it commits its State Parties to respect the civil and political rights of individuals including the right to life, freedom of religion, freedom of expression, freedom of assembly, electoral rights, rights of due process and to a fair trial, and the right not to be subjected to cruel, inhuman or degrading treatment or punishment. The Human Rights Committee (HRC) monitors implementation of the International Covenant on Civil and Political Rights and its optional protocols.

The Universal Periodic Review (UPR) is a unique mechanism of the Human Rights Council (HRC) aimed at improving the human rights situation on the ground of each of the 193 United Nations (UN) Member States. (see upr-info.org for further info.) Under this mechanism, the human rights situation of all UN Member States is reviewed every 5 years. These three sessions are usually held in January/February, May/June and October/November.

The result of each review is reflected in an “outcome report” listing the recommendations the State under review (SuR) will have to implement before the next review.

The UPR is a full-circle process comprised of 3 key stages:

1. Review of the human rights situation of the state under review;
2. Implementation between two reviews (5 years) by the State Under Review of the recommendations received and the voluntary pledges made;
3. Reporting at the next review on the implementation of those recommendations and pledges and on the human rights situation in the country since the previous review.

Belize next review session is November 2018.

Belize last session was on the 28 May 2013. Mid-term reporting occurred on the 05/2016.

Stakeholder’s deadline for submission is 22 March 2018. The recommended drafting period is January 2018 – 22 March 2018. This would ensure that there is sufficient time for advocacy before the next UPR in 11/2018.

INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR)

The ICESCR calls on its State Parties to undertake and to work towards the granting of economic, social, and cultural rights to individuals, including labour rights and the right to health, the right to education, and the right to an adequate standard of living. The UN Committee on Economic, Social and Cultural Rights (CESCR) monitors implementation of the International Covenant on Economic, Social and Cultural Rights (1966)

Belize signed the ICESCR on 06 September 2000 and ratified it on the 09 March 2015.

CONVENTION ON THE RIGHTS OF THE CHILD (CRC)

This Convention deals specifically with the protection of the rights of children, setting out the civil, political, social, health and cultural rights of children. Under the CRC, a child is defined as a person under the age of eighteen years, unless the domestic legislation in a particular State declares that the age of majority is attained earlier. The Committee on the Rights of the Child (CRC) monitors implementation of the Convention on the Rights of the Child (1989) and its optional protocols (2000).

CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

CEDAW is described by the United Nations as an international bill of rights for women. The Convention reaffirms its faith in fundamental human rights, in the dignity, and worth of the human person, and in the equal rights of men and women. It details the meaning of equality and how it can be achieved. Several dimensions of discrimination of women are addressed. These include the civil and legal status of women, reproductive rights, equality in relation to men on issues such as public and political life, education, cultural life and economic rights.

Committee on the Elimination of Discrimination against Women (CEDAW) monitors implementation of the Convention on the Elimination of All Forms of Discrimination against Women (1979) and its optional protocol (1999)

CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (CERD)

CERD commits its members to the elimination of racial discrimination and the promotion of understanding among all races. As such State Parties are obligated to ensure the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law and to the enjoyment of the rights and freedoms outlined in the Convention. Committee on the Elimination of Racial Discrimination (CERD) monitors implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (1965)

INTERNATIONAL CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)

CRPD commits its members to protect the rights and dignity of persons with disabilities. Parties to the convention are required to promote, protect, and ensure the full enjoyment of human rights by persons with disabilities and ensure that they enjoy full equality under the law. It came into force on 3 May 2008. Committee on the Rights of Persons with Disabilities (CRPD) monitors implementation of the International Convention on the Rights of Persons with Disabilities (2006).

INTER-AMERICAN SYSTEM

The Inter-American System for the protection of human rights is one of the world's three regional human rights systems, and is responsible for monitoring and ensuring implementation of human rights guarantees in the 35 independent countries of the Americas that are members of the Organization of American States (OAS).

The Inter-American System is composed of two entities: a Commission and a Court. Both bodies can decide individual complaints concerning alleged human rights violations and may issue emergency protective measures when an individual or the subject of a complaint is in immediate risk of irreparable harm. Belize is not a signatory to the Inter-American Court.

Mandate and Functions of the Commission

The principal function of the IACHR is to promote the observance and protection of human rights in the Americas. As Article 106 of the Charter of the Organization provides,

[t]here shall be an Inter-American Commission on Human Rights, whose principal function shall be to promote the observance and protection of human rights and to serve as a consultative organ of the Organization in these matters.

An inter-American convention on human rights shall determine the structure, competence, and procedure of this Commission, as well as those of other organs responsible for these matters.

In furtherance of its mandate, the Commission:

1. Receives, analyzes and investigates individual petitions in which violations of human rights are alleged to have been committed either by a Member State of the OAS that has ratified the American Convention or by one that has not.
2. Observes the general situation of human rights in the Member States and publishes, when it deems appropriate, reports on the situation in a given Member State.
3. Conducts in loco visits to countries to conduct an in-depth analysis of the general situation and/or to investigate a specific situation. In general, these visits lead to the preparation of a report on the human rights situation observed, which is published and presented to the Permanent Council and to the General Assembly of the OAS.
4. Develops an awareness of human rights among the peoples of the Americas. To that end, the Commission prepares and publishes reports on specific issues, such as: the measures that must be taken to ensure greater access to justice; the effects that internal armed conflicts have on certain groups; the human rights situation of children, women, and migrant workers and their families, persons deprived of liberty, human rights defenders, indigenous persons, persons of African descent; freedom of expression; citizen security and terrorism, and how they relate to human rights, and so on.
5. Organizes and holds visits, lectures, seminars and meetings with government representatives, academic institutions, nongovernmental organizations and others for the purpose of communicating information and promoting a broad understanding of the work of the inter-American human rights system.
6. Recommends to the OAS Member States the measures they should take the better to protect human rights in the countries of the hemisphere.
7. In serious and urgent cases, requests Member States to adopt precautionary measures, in keeping with Article 25 of its Rules of Procedure, in order to prevent irreparable harm to persons or to the subject matter

of the proceedings in connection with a pending petition or case. Furthermore, under Article 63(2) of the American Convention, in cases of extreme gravity and urgency the Commission may request that the Inter-American Court order the adoption of “provisional measures” to prevent irreparable harm to persons, even when the case has not yet been submitted to the Court.

8. Presents cases to the Inter-American Court and appears before the Court during the processing and consideration of cases.
9. Requests advisory opinions of the Inter-American Court, pursuant to Article 64 of the American Convention.
10. Receives and examines communications in which a State party alleges that another State party has committed a violation of a human right protected under the American Convention, pursuant to Article 45 thereof.

The following is an extract from the IACHR brochure which is found on their website at <http://www.oas.org/en/iachr/docs/pdf/HowTo.pdf>

WHAT IS THE COMMISSION'S FUNCTION?

The Commission's function is to promote the observance and defense of human rights in the Americas. The Commission performs this function by making visits to the countries, carrying out thematic activities and initiatives, preparing reports on the human rights situation in a certain country or on a particular thematic issue, adopting precautionary measures or requesting provisional measures before the Inter-American Court, and processing and analyzing individual petitions with a view to determining the international responsibility of the States for human rights violations, and issuing the recommendations it deems necessary. The individual petitions that the Commission examines may be submitted by individuals, groups of individuals, or organizations that allege violations of the human rights guaranteed in the American Declaration of the Rights and Duties of Man (“the American Declaration”), the American Convention on Human Rights (“the American Convention”), and other inter-American human rights treaties.

Against whom can I file a petition alleging a violation of human rights?

The complaint must be filed against one or more Member States of the OAS considered to have violated the human rights contained in the American Declaration, the American Convention, and other inter-American human rights treaties.

The State may be responsible for violating human rights by:

- ▶ action (as a result of an act by the State or its agents),
- ▶ acquiescence (as a result of the tacit consent of the State or its agents), or
- ▶ commission (as a result of the State or its agents failing to take action when they should have done so)

Can the Commission determine the liability of an individual person?

No. The Commission is not competent to attribute individual liability, that is, it cannot determine whether an individual person is or is not guilty. The Commission can only determine the international responsibility of a Member State of the OAS.

What results can I expect if I file a petition alleging a violation of human rights against a Member State of the OAS?

If the Commission determines that a State is responsible for having violated the human rights of a person or group of persons, it will issue a report that may include the following recommendations to the State:

- ▶ suspend the acts in violation of human rights;
- ▶ investigate and punish the persons responsible;
- ▶ make reparation for the damages caused;
- ▶ make changes to legislation; and/or
- ▶ require that the State adopt other measures or actions. In addition, a friendly settlement of the matter may be pursued with the State.

In which cases will the Commission not be able to help me?

The Commission cannot:

- ▶ issue a ruling with respect to a State that is not a member of the OAS;
- ▶ provide attorneys to assist in domestic judicial proceedings or to submit a petition or request for precautionary measures to the Commission;
- ▶ provide economic assistance or materials and supplies to persons;
- ▶ undertake immigration procedures, or process the granting of visas or political asylum.

Petition

By filing a petition before the Inter-American Commission on Human Rights, victims of human rights violations can obtain help. The Commission investigates the situation and can make recommendations to the State responsible to restore the enjoyment of rights whenever possible, to prevent a recurrence of similar events, to investigate the facts and to make reparations to victims of rights violation.

Every petition should include:

- a. the personal information of the alleged victim(s) and that of his/her next of kin;
- b. the personal information on the petitioner(s), such as complete name, phone number, mailing address, and email;
- c. a complete, clear, and detailed description of the facts alleged that includes how, when, and where they occurred, as well as the State considered responsible;
- d. an indication of the State authorities considered responsible;
- e. the rights considered violated, if possible;
- f. the judicial bodies or authorities in the State to which one has turned to remedy the alleged violations;
- g. the response of the State authorities, especially of the courts of justice;
- h. if possible, uncertified and legible copies of the principal complaints and motions filed in pursuit of a remedy, and of the domestic judicial decisions and other annexes considered relevant, such as witness statements; and
- i. an indication as to whether the petition has been submitted to any other international organization competent to resolve cases.

If possible, it is recommended that a list be included numbering the annexes attached to the petition to facilitate their identification.

Where do I send my request for precautionary measure?

Request for precautionary measures may be sent via::

email to cidhdenuncias@oas.org

Fax: +1 (202) 458-3992 or 6215 or

Online Portal: <https://www.oas.org/ipsp/default.aspx?lang=es>

via Mail to

Inter-American Commission on Human Rights

1889 F Street N.W.

Washington, D.C. 20006

United States

Who may submit petitions

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- b. investigate and punish the persons responsible;
- c. make reparation for the damages caused;
- d. make changes to legislation; and/or
- e. require that the State adopt other measures or actions. In addition, a friendly settlement of the matter may be pursued with the State.

CASE STUDY:

Franz Britton Case – Report No. 54/15

Petition was presented to the Inter-American Commission on Human Rights (“the Commission”) by letter dated March 21, 2000, by I. Kamau Cush, Chairman for Economic Empowerment, Belize, (“the petitioner”) against the State of Belize (“the State” or “Belize”), on behalf of Mr. Franz Britton, a.k.a. Collie Wills (“Mr. Britton”).

The petitioner alleges that the State has violated the rights of Mr. Britton as set forth in the American Declaration on the Rights and Duties of Man (“the Declaration”).

Mr. Britton, a Belizean national and father of three children, was first arrested on January 19, 1999, by police officers at Cove and John Police Station, East Coast Demerara, Belize and released on January 23, 1999. Mr. Britton was asked to report on January 25, 1999 to that same police station where he was re-arrested by a police division known as the Quick Reaction Group or the “Black Clothes”. The “Black Clothes” division is “a unit that functions as a death squad”.

Mr. Britton was last seen being forced by police officers into a car. Mr. Britton has not been seen since his rearrest on January 25, 1999. Mr. Britton’s relatives including his mother, Ms. Irma Wills have received no information from the State about the whereabouts of Mr. Britton, despite multiple inquiries made of the police and other State official. Mr. Britton has not been seen since his re-arrest on January 25, 1999 and that his whereabouts remain unknown.

For the foregoing reasons, the petitioner claims that the State has violated the human rights of Mr. Britton the right to equality before the law, the right to the preservation of health and well-being, the right to a fair trial, the right to protection from arbitrary arrest, and the right to due process of law.

The Commissions called for the state to:

1. Carry out a serious, impartial and effective investigation by means of the competent organs, to establish the whereabouts of Franz Britton and to identify those responsible for his detention/disappearance, and, by means of appropriate criminal proceedings, to punish those responsible for such grave acts in accordance with the law.
2. Adopt the necessary legislative or other measures to prevent the recurrence of such events and provide, in all cases, the required due process and effective means of establishing the whereabouts and fate of anyone held in State custody.
3. It adopt measures to make full reparation for the proven violations, including taking steps to locate the remains of Franz Britton and to inform the family of their whereabouts; making the arrangements necessary to facilitate the wishes of his family as to an appropriate final resting place; and providing reparations for the relatives of Franz Britton including moral and material damages in compensation for the suffering occasioned by Mr. Britton’s disappearance and not knowing his fate.

Precautionary Measures

In certain serious and urgent situations, and provided that certain requirements are met, the Commission may adopt precautionary measures.

Precautionary measures calls on the state to take steps to protect a person(s) who is in imminent peril. A person needs a precautionary measure when there is reason to believe that they are at risk of injury to their basic human rights. The precautionary measure would normally be given where money would not be an adequate compensation to the injured person. The IACHR's authority to request urgent measures is reflective of a common practice in international human rights law.

You do not need a lawyer to file a request for precautionary measure. You can file your request for precautionary measure yourself without the assistance of a lawyer. There is no fee for submitting a request for precautionary measures.

The request for a precautionary measure can be sent in the form of a letter.

It should include the following information, listed as A – F. Once you have included the material information you should send off the precautionary measure or petition.

Material Information

A. Personal Information

- i. the applicant's name, telephone, mailing address, fax, email, contact number.
- ii. Whether the applicant wishes to keep his identity secret.
- iii. The name of class of proposed beneficiary and contact number of the beneficiary. This information should be clear enough for the state to know which beneficiary should be protected.

B. Facts Alleged

- i. A detailed and chronological description of the facts that shows the existence of a serious and urgent situation and irreparable harm.
- ii. The current situation of the persons proposed as beneficiaries and their degree of risk.
- iii. If possible, legible, uncertified copies should be sent of the documents needed to understand the situation of the proposed beneficiary, such as copies of complaints presented to the authorities, medical certificates in situations involving health, and any other relevant legal motions that have been presented. If it is not possible to send these documents, the reasons should be provided. Photocopies of documents do not require any formality, that is, it is not necessary that they be certified, notarized or legally authenticated. One need not send several copies of the same document. If the request and its annexes are sent by mail, it is preferable that the documentation not be bound or laminated in any way.

C. Complaints to State Authorities

- i. An explanation of whether the facts alleged have been reported to the authorities or whether the State has been asked to provide protection, and a description of the response, if any; or an explanation of why it has not been possible to put such protection in place.
- ii. An indication as to whether the person or group or persons proposed as beneficiaries already has any measures of protection domestically. If so, provide an explanation of how effective those measures have been.

D. Measures requested – A description of the measures of protection or others measures that have been requested.

E. Information as to whether you filed a petition/case before commission

- i. Indicate whether the applicant/beneficiary has already filed a petition or has a case pending before the Commission.
- ii. if so, the date of submission of the petition and the reference number assigned to the petition or case should be included

Requests for precautionary measures may be sent

- A. via email to cidhdenuncias@oas.org
- B. via Fax: +1 (202) 458-3992 or 6215 or
- C. via Mail to
Inter-American Commission on Human Rights
1889 F Street N.W.
Washington, D.C. 20006
United States

Article 25. Precautionary Measures

1. *In serious and urgent situations, the Commission may, on its own initiative or at the request of a party, request that a State adopt precautionary measures to prevent irreparable harm to persons or to the subject matter of the proceedings in connection with a pending petition or case.*
2. *In serious and urgent situations, the Commission may, on its own initiative or at the request of a party, request that a State adopt precautionary measures to prevent irreparable harm to persons under the jurisdiction of the State concerned, independently of any pending petition or case*
3. *The measures referred to in paragraphs 1 and 2 above may be of a collective nature to prevent irreparable harm to persons due to their association with an organization, a group, or a community with identified or identifiable members.*
4. *The Commission shall consider the gravity and urgency of the situation, its context and the imminence of the harm in question when deciding whether to request that a State adopt precautionary measures. The Commission shall also take into account:*
 - a. *whether the situation of risk has been brought to the attention of the pertinent authorities or the reasons why it might not have been possible to do so;*
 - b. *the individual identification of the potential beneficiaries of the precautionary measures or the identification of the group to which they belong; and*
 - c. *the express consent of the potential beneficiaries whenever the request is filed before the Commission by a third party unless the absence of consent is duly justified.*

CASE STUDY:

PM 458/14 – Members of Kaieteur News Journal, Belize

On November 18, the IACHR requested the adoption of precautionary measures for members of Kaieteur News, in Belize. The request for precautionary measures alleges that the proposed beneficiaries received threats against their lives and personal integrity as a consequence of their work as journalists. After analyzing the allegations of fact and law, the Commission believes that the information presented demonstrates prima facie that the members of the Kaieteur News Journal are in a serious and urgent situation, since their lives and personal integrity face an imminent risk of irreparable harm. Consequently, in accordance Article 25 of IACHR's Rules of Procedure, the Commission requires the Republic of Belize to adopt the necessary measures to protect the lives and personal integrity of the three identified members of the Kaieteur News Journal; to agree on the measures to be adopted with the beneficiaries and their representatives; and to report on the actions taken to investigate the alleged incidents that gave rise to the adoption of this precautionary measure in order to prevent their repetition.

Hearings

Hearings are helpful since they allow the IACHR to 'Observe the general situation of human rights in the Member States and publishes, when it deems appropriate, reports on the situation in a given Member State.'

IACHR hearings can be held either in private or in public. Public hearing brings international attention to many thematic issues. Civil Society actors and government can request thematic hearings. The request for a thematic hearing can be made by simply writing a letter to the IACHR through its online system. This is normally done at least fifty (50) days before the beginning of the Commission session. A request must include the purpose of the hearing and the names of the proposed civil society witnesses and experts, as well as a point of contact.

The purpose of the hearing could be to present issues before an international body. The presentation of the issues could very well ensure that they are addressed by the state party. The state party is normally present at these hearings. The State party is invited to present information on behalf of the state. This is often a very useful process for getting state parties to address long standing problems. The IACHR will also be aware of the relevant issue and may also on its own initiative conduct further activities including a country visit which can assist in remedying the problem.

CONCLUSION

Victims of rights violations and civil society organisations can seek assistance from various international bodies to address these breaches. The IACHR can be contacted to seek either (1) precautionary measure, (2) to file a petition, (3) for a hearing. As displayed above, these tools have been used to good effect to address rights violation. Civil Society Organisation can also take special notes of the various international bodies which monitor adherence to various treaties. CSO can share their properly databases with these bodies to demonstrate areas of rights violation that need special attention from state actors.

ACTIVITY

Advise Mary Strokes on the different international bodies to which complaints can be made.

REFERENCES AND MATERIALS CONSULTED

A. DOMESTIC LAWS AND POLICIES

1. The Constitution of Belize, (as of March 1, 2012)
2. Criminal Code, 2000
3. Family Court Act Belize, 2000
4. Inferior Courts Act, 1953
5. District Court (Procedure) Act, 1953
6. Summary Procedure Act, 1953
7. Judges Rule, 29 May 2000
8. Police Act, 2000
9. Indicatable Procedure Act, 2000
10. Motor Vehicle and Road Traffic Act, 2000
11. Misuse of Drugs Act, 2000
12. Families and Children Act, 2003

B. POLICY AND WEBSITES

1. National Gender Policy (2002)
2. Revised Gender Policy (2013)
3. National Workplace Policy on HIV/AIDs
4. HIV/Aids Policy of the Public service Belize, 2007
5. Belize HIV Strategic Plan 2012 – 2016
6. Advocacy before the Inter-American System: Manual for Attorneys and Advocates (2014)
7. <https://www.upr-info.org/en/review/Belize>

NOTES

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