



## International Covenant on Civil and Political Rights

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### Human Rights Committee

## Concluding observations on Belize in the absence of a report, adopted by the Committee at its 107th session (11 – 28 March 2013)

1. In the absence of a report by the State party, the Human Rights Committee considered the situation of civil and political rights under the International Covenant on Civil and Political Rights in Belize at its 2960th meeting (CCPR/C/SR. 2960), held in a public session on 15 March 2013. In accordance with rule 70, paragraph 1, of the Committee's rules of procedure, the failure of a State party to submit its report under article 40 of the Covenant may lead to an examination in a public session of the measures taken by the State party to give effect to the rights recognized in the Covenant and to adopt concluding observations.

2. At its 2974th meeting (CCPR/C/SR.2974), held on 26 March 2013, the Human Rights Committee adopted the following concluding observations, pending submission of the State party's initial report and the Committee's examination of that report.

### A. Introduction

3. The Covenant came into force for Belize on 9 September 1996. The State party was under an obligation to submit its initial report by 9 October 1997 under article 40, paragraph 1 (a), of the Covenant. The Committee regrets that the State party has failed to honour its reporting obligations under article 40 of the Covenant and that, despite numerous reminders, the State party has not submitted the initial report. This amounts to a breach by the State party of its core obligation under article 40 of the Covenant.

4. The Committee regrets that the State party did not send a delegation, which prevented it from engaging in a constructive dialogue with the authorities of the State party. The Committee is, however, grateful to the State party for sending replies to the Committee's list of issues, which provided some clarification on a number of issues, albeit scanty in their coverage of the issues raised by the Committee.

### B. Positive aspects

5. The Committee welcomes the ratification by the State party of the following treaties:

- (a) The Convention on the Rights of Persons with Disabilities, on 2 June 2011;
- (b) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, on 14 November 2001;
- (c) International Convention on the Elimination of All Forms of Racial Discrimination, on 14 November 2001;

(d) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 1 December 2003;

(e) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 1 December 2003;

(f) The Optional Protocol to the Convention on the Elimination of Discrimination against Women, on 9 December 2002.

### C. Principal subjects of concern and observations

6. The Committee notes that the State party maintains a reservation to article 12, paragraph 2 on the ground that national interests justify the statutory provision requiring persons intending to travel abroad to furnish Tax Clearance Certificates (arts. 2 and 12).

**The State party should consider withdrawing its reservation to article 12, paragraph 2.**

7. The Committee regrets that the State party continues to maintain a reservation to article 14, paragraph 3(d) of the Covenant because the State party cannot fully guarantee the implementation of the right to free legal assistance. The Committee is concerned that the lack of free legal assistance affects the delivery of justice particularly the juvenile justice system (arts. 2, 14 and 24).

**The Committee recalls its general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, and reiterates that “article 14, paragraph 3 (d) guarantees the right to have legal assistance assigned to accused persons whenever the interests of justice so require”. The Committee notes that a blanket reservation to article 14, paragraph 3(d) has the effect of depriving accused persons of the minimum guarantees set thereunder when the interests of justice may require that such persons be provided with legal assistance. The State party should consider withdrawing its reservation. In the meantime, the State party should give urgent priority to providing legal representation to juveniles facing imprisonment in order to meet its obligations under article 24.**

8. The Committee regrets that although the State party claims that it accepts the principle of compensation for wrongful imprisonment contained in paragraph 6 of article 14 of the Covenant, it maintains a reservation to this article arguing that problems with the implementation of this right compel it not to apply this principle (art. 2).

**The Committee recalls its general comment No. 32 (2007) and reiterates that “it is necessary that States parties enact legislation ensuring that compensation as required by this provision [article 14, paragraph 6] can in fact be paid and that the payment is made within a reasonable period of time”. The State party should consider withdrawing its reservation to article 14, paragraph 6.**

9. While welcoming the appointment of an Ombudsperson in December 2012, the Committee is concerned at reports that the Office of the Ombudsperson lacks sufficient human and financial resources. The Committee is concerned that the State party has not yet established a national human rights institution (NHRI) in line with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) (art. 2).

**The State party should provide the Office of the Ombudsman with sufficient financial and human resources. Furthermore, it should report on the measures that it has taken, since its review by the Human Rights Council under the universal periodic review mechanism, to establish a NHRI in accordance with the Paris Principles.**

10. While noting the State party’s replies to the list of issues that the provisions of the Covenant can be invoked in the courts, the Committee regrets the lack of information on

instances when provisions of the Covenant have been invoked or referred to in national courts. The Committee notes that the State party has not enacted enabling legislation to put into effect the provisions of the Covenant, and that there is no specific training for judges, lawyers and law enforcement personnel on the Covenant (art. 2).

**The State party should provide in its initial report information on instances of when and how domestic courts have referred to provisions of the Covenant. It should also undertake specific programmes aimed at providing training and raising awareness of the Covenant among judges, lawyers and prosecutors to ensure that its provisions are taken into account, where appropriate, by national courts.**

11. The Committee regrets the lack of information regarding the extent to which the State party's legislation prohibits discrimination on the basis of language, religion, opinion, social origin, property, birth or other status as provided for in article 2 of the Covenant (arts. 2 and 26).

**The State party should provide such information and, if necessary, bring its legislation in line with the scope of articles 2 and 26 of the Covenant.**

12. The Committee regrets the persisting wage gaps between women and men. The Committee also regrets the lack of information on whether temporary special measures to improve the participation of women in politics will be undertaken despite the recommendations by the Political Reform Commission made in 2000 not to support temporary special measures such as quotas. The Committee also expresses concern about the lack of information on measures to promote women's representation in decision-making positions, particularly in the private and public sector (arts. 3 and 26).

**The Committee urges the State party to adopt a comprehensive and integrated approach to its policies to ensure that gender mainstreaming is practised at all levels. In this regard, the State party should take concrete measures to close the wage gap between men and women. It should further improve the participation of women in public and political life as well as decision-making positions in all spheres of life through, inter alia, the introduction of temporary special measures.**

13. The Committee takes note that certain individuals in the State party have instituted proceedings challenging the constitutionality of section 53 of the Criminal Code, which prohibits same sex relations, and of section 5(1)(e) of the Immigrations Act, which includes homosexuals on the list of prohibited persons for purposes of immigration. The Committee further notes that as such these matters are sub-judice. However, it is concerned that the State party lacks any constitutional or statutory provision expressly prohibiting discrimination on grounds of sexual orientation or gender identity. The Committee is further concerned at reports of violence against lesbian, gay, bisexual, and transgender (LGBT) persons (arts. 2, 12 and 26).

**The State party should review its Constitution and legislation to ensure that discrimination on grounds of sexual orientation and gender identity are prohibited. The Committee further urges the State party to include in its initial report information on the outcome of the case challenging the constitutionality of section 53 of the Criminal Code and section 5(1)(e) of the Immigration Act. The State party should also ensure that cases of violence against LGBT persons are thoroughly investigated and that the perpetrators are prosecuted, and if convicted, punished with appropriate sanctions, and that the victims are adequately compensated.**

14. The Committee notes the State party's explanation in its replies to the list of issues that since provisions on the right to life, the prohibition of torture and freedom of thought, conscience and religion are not listed in article 18(10) of the Constitution as derogable rights in a state of emergency, it follows that these rights are non-derogable in a state of emergency. However, the Committee is concerned at the lack of a clear provision in the

Constitution and legislation to dispel any doubts that other rights made non-derogable under the Covenant, including rights protected under articles 8, paragraphs 1 and 2; 11; 15 and 16 of the Covenant, cannot be derogated from during a state of emergency (arts. 2 and 4). The Committee recalls its general comment No. 29 (2001) and notes with concern that section 18(10) of the Constitution of Belize only requires that a derogation is reasonably justifiable in the circumstances of emergency.

**The Committee reiterates its general comment No. 29 (2001) and urges the State party to ensure clarity in its Constitution and legislation governing states of emergency so that all rights protected under article 4 of the Covenant are not derogated from during a state of emergency, and to ensure that the requirements of such derogations are consistent with the Covenant. In this regard the State party should ensure that legislation provides that measures derogating from the State party's obligations under the Covenant may be taken to the extent strictly required by the exigencies of the situation provided that such measures are not inconsistent with the State party's other obligations under international law and do not involve discrimination, solely on the ground of race, colour, sex, language, religion or social origin.**

15. While taking note of the efforts by the State party to combat violence against women including domestic violence such as the enactment of the Domestic Violence Act which came into force in 2007, and the establishment of a Family Violence Unit, the Committee notes with concern the continuing reports of violence against women. The Committee also regrets the lack of information and statistical data on all types of violence against women and of the steps taken to assess the effectiveness of measures undertaken to combat violence against women including domestic violence (arts. 3 and 7).

**The State party should adopt a comprehensive approach to preventing and addressing gender-based violence in all its forms and manifestations. In this regard, the State party should continue to improve its research and data collection methods and systems, such as the Gender-Based Violence Surveillance System, in order to establish the extent of the problem, its causes and consequences on women. The State party should ensure that cases of domestic violence and marital rape are thoroughly investigated and that the perpetrators are prosecuted, and if convicted, punished with appropriate sanctions, and the victims adequately compensated.**

16. The Committee is concerned at reports that the Eligibility Committee that was mandated to conduct refugee status determination (RSD) is non-operational and that the last RSD exercise was conducted in 1997. The Committee is concerned that as a result of the non-existence of an asylum screening system and the alleged reluctance by authorities of the State party to consider claims for protection, persons facing a real risk of treatment inconsistent with articles 6 and 7 of the Covenant are in danger of refoulement (arts. 6, 7 and 13).

**The State party should re-establish a mechanism for refugee status determination. The State party should observe its obligation to respect the principle of non-refoulement.**

17. While welcoming the enactment of the Trafficking in Persons Prohibition Act of 2013, which repealed the Trafficking Persons Prohibition Act of 2009, with a view to introducing stiffer penalties for trafficking in persons and related offences, the Committee remains concerned at the prevalence of trafficking in persons and that the State party remains both a country of destination and transit. The Committee is also concerned at the lack of disaggregated data on the progress made to combat trafficking in persons, and the lack of information on training programmes for judicial officers and law enforcement personnel on trafficking in persons since the Covenant came in force for the State party (art. 8).

The State party should provide data on the magnitude of the problem of human trafficking in the State party which should be disaggregated by age, sex and ethnic origin, and should also focus on trafficking flows from, to and in transit through its territory. The State party should train its police officers, border personnel, judges, lawyers and other relevant personnel in order to raise awareness of this phenomenon and the rights of victims. Furthermore, the State party should ensure that all perpetrators of trafficking in persons are investigated, prosecuted, and if convicted, adequately sanctioned, and should guarantee that adequate protection, reparation and compensation are provided to the victims.

18. While welcoming the enactment of the Education and Training Act of 2010, which prohibits corporal punishment in schools, the Committee remains concerned that corporal punishment remains lawful under the Criminal Code. The Committee regrets the State party's response in the replies to the list of issues, that there has never been an initiative to repeal the provision in the Criminal Code which permits corporal punishment (arts. 7 and 24).

**The State party should take practical steps to put an end to corporal punishment in all settings. In this regard, the State party should repeal the provisions of the Criminal Code, which permit the use of corporal punishment. The State party should act vigorously to prevent any use of corporal punishment under the Criminal Code as a form of punishment for criminal offences until it repeals the provisions in the Criminal Code.**

19. The Committee is concerned at reports that excessive use of force by law enforcement officers is widespread in the State party. The Committee notes the existence of the Professional Standards Branch which is mandated under section 24(i) of the Police Act to investigate complaints from aggrieved citizens who allege unlawful conduct and violations by law enforcement personnel. However, the Committee is concerned at reports that the Professional Standards Branch lacks adequate resources and that it refuses to investigate cases that come to its attention without an official complaint by the victim. The Committee is also concerned at reports that the Independent Complaints Commission is not functional. The Committee is further concerned at the lack of information on allegations of torture and/or ill-treatment in places of deprivation of liberty, particularly committed in juvenile facilities (arts. 2, 7 and 9).

**The State party should take concrete steps to prevent the excessive use of force by law enforcement officers by ensuring that they comply with the 1990 United Nations' Basic Principles on the Use of Force and Firearms by Law Enforcement Officials . It should also take appropriate measures to ensure that the Independent Complaints Commission is functional, and that the Professional Standards Branch is adequately resourced to ensure that they effectively carry out investigations of alleged misconduct by police officers. In this connection, the State party should ensure that law enforcement personnel continue to receive training on the prevention of torture and ill-treatment by integrating the 1990 Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) in all training programmes for law enforcement officials. The State party should also ensure that allegations of torture and ill-treatment are effectively investigated and that alleged perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that the victims are adequately compensated. The State party should also provide information on allegations of use of torture and/or ill-treatment in places of deprivation of liberty, including juvenile detention facilities.**

20. The Committee is concerned at reports of inordinate delays in the delivery of justice and the acknowledgment by the State party's judiciary that delays are attributable to lack of adequate resources provided to the judiciary (art. 14).

**The State party should provide adequate resources to the judiciary to ensure that the delivery of justice is expedited. Furthermore, the State party should provide information in its initial report on the efficiency of the measures taken by the State party to deal with delays in the delivery of justice particularly those related to management of cases and ensuring efficiency in the Registries of the State party's courts.**

21. While noting that section 12(1) of the State party's Constitution protects freedom of expression, the Committee regrets the lack of information on the impact of the State party's libel laws on the freedom of expression (art. 19).

**The State party should provide information in its initial report on the impact of its libel laws on freedom of expression.**

22. While taking note of the efforts by the State party to improve birth registration such as the establishment of points of registration at major hospitals, the Committee remains concerned at reports of shortcomings and cumbersome steps for birth registration such that most children in the State party remain without birth registration certificates. The Committee is concerned at the lack of information on how the failure to register and obtain birth certificates affects claims for nationality and social benefits (art. 24).

**The State party should strengthen its efforts to realize birth registration and the provision of birth certificates for all children, particularly in the rural areas, through appropriate interventions such as awareness-raising programmes on the need to register births and to simplify procedures for registration. The State party should provide information in its initial report on the impact of the lack of birth certificates on claims to nationality and access to social benefits.**

23. The Committee is concerned at the high dropout rates of pregnant teenage girls from school and the poor return rates after pregnancy. The Committee is concerned at the lack of data on the State party's efforts to improve this situation (art. 24).

**The State party should enhance its efforts to raise awareness on the importance of women and girls' education. In this regard, the State party should adopt specific measures aimed at reducing the school dropout rates of teenage pregnant girls and at encouraging pregnant teenage girls to continue school after giving birth. The State party should also provide statistical data on this phenomenon in its initial report, particularly focusing on efforts undertaken to improve the situation at the primary and secondary levels of the education system.**

24. The Committee is concerned that persons found to be suffering from mental disabilities under any law in force in the State party are disqualified from voting and registering to vote (arts. 25 and 26)

**The State party should revise its legislation to ensure that it does not discriminate against persons with mental intellectual or psychosocial disabilities by denying them the right to vote on bases that are disproportionate or that have no reasonable and objective relationship to their ability to vote, taking account of article 25 of the Covenant, and article 29 of the Convention on the Rights of Persons with Disabilities.**

25. The Committee is concerned at reports regarding the refusal by the State party to comply with court orders following the decision of the Inter- American Human Rights Commission of 12 October 2004 and the decisions of the Supreme Court of Belize of 18 October 2007 and 28 June 2010 restraining the State party from issuing concessions for resource exploitation and parcelling for private leasing of Mayan land. The Committee regrets reports that the State party continues to grant concessions to companies involved in logging, oil drilling, seismic surveys and road infrastructure projects in Mayan territories thereby affecting the rights of the Mayan peoples to practice their culture on their traditional lands (arts. 14 and 27).

**The State party should provide information on allegations that it has not been complying with decisions of the Supreme Court with regard to Mayan land. The State party should desist from issuing new concessions for logging, parcelling for private leasing, oil drilling, seismic surveys and road infrastructure projects in Mayan territories without the free, prior, and informed consent of the relevant Mayan community.**

26. The Committee reminds the State party of the possibility of soliciting technical cooperation from the appropriate United Nations organs/agencies as well as the Office of the United Nations High Commissioner for Human Rights, to assist it in developing its capacity to meet its reporting obligations under the Covenant.

27. The State party should widely disseminate the Covenant and the present concluding observations so as to increase awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The Committee also requests the State party, when preparing its initial report, to broadly consult with civil society and non-governmental organizations.

28. The Committee requests the State party to submit its initial report by 28 March 2015.

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