

Parliamentarians for Global Action (PGA)

“The situation of LGBTI persons in the Americas and progress in achieving equality and non-discrimination”

Situation in Belize, importance and positive impact of the ruling that declared Section 53 (which criminalized sexual relations between consenting adults of the same sex) unconstitutional.

Prepared by Orlando Habet

Brief History of LGBT

There has certainly been awareness of the existence of LGBT or more so, Gay persons in Belize. With a slow growing population of a 150,000 in the late 70's to approximately 360,000 in 2017 and in a physical area of close to 23,000 sq. kilometers makes Belize one of the least populated countries in the Western hemisphere. This being said, makes knowing and recognizing people from within a particular community very likely. Therefore, it is said that in Belize, we tend to know everyone. Recognition of a Gay person was and possibly still associated with that person being effeminate. One would not associate Gay with being athletic or muscular. It was said that almost every main Town had a well-known Gay person. Belize city had “Shirley” and Carmen Miranda”, Orange Walk Town had “Kaya” and Benque Viejo had Giovanni Castellanos and “Chema Segura”. Acceptance of Gays in the community was to the extent that they would keep to themselves. However, there has always been a more silent and recently growing issue of homophobia, violence and general discrimination against LGBT among many Belizeans.

A. Advancement of LGBT and Public Opinion

A mural depicting peace and equality caused a stir in Orange Walk Town in October of 2011. The painting was the brainchild of peace corp volunteer, Zachary Pullin, and Equal Belize, a local youth group. The mural was done with permission from the Town Council in the commemoration of Peace and Equality Day. The Peace and Equality initiative was spearheaded by DAVCO (District Association of Village Councils), Peace Corps Volunteer Zachary Pullin and the Orange Walk Town Council. Nevertheless, due to heavy criticism from the public and the church groups the “Rainbow” mural was painted over and replaced with a white background and colorful images of children.

United Belize Advocacy Movement (UNIBAM) is a public-health advocacy group for gay men and one of the country's most well-known lesbian, gay, bisexual, and transgender

advocacy organization. Its president was Caleb Orosco. He is the claimant in the first-ever constitutional challenge to the country's anti-sodomy law. There are no gay pride marches organized due to UNIBAM membership concerns over the public's possible adverse reaction.

There are those who have lost their jobs and all they have worked for because of 'malicious' stories around their sexualities and of being compared to pedophiles. There have been cases of people from other countries hiding in Belize and who have been accused of being pedophiles and of sexual crimes against adults and minors. The latter, possibly contributing largely to the branding of LGBT as pedophiles.

In 2013, UNAIDS conducted a survey of 773 Belizeans, ages 18 to 64. The survey found that 34% consider themselves accepting of homosexuals, while another 34% consider themselves tolerant of homosexuals. Of all the Caribbean countries that were polled, Belize and Suriname had the highest percentage of acceptance for homosexuals.

B. Legality and Constitutionality

In September 2010, the United Belize Advocacy Movement (UNIBAM) and its executive director Caleb Orozco jointly filed a case in the Supreme Court of Judicature of Belize challenging the constitutionality of Belize's anti-sodomy law with the support of the International Commission of Jurists, the Commonwealth Lawyers' Association, and the Human Dignity Trust. According to Section 53 of the Belize Criminal Code, "Every person who has carnal intercourse against the order of nature with any person or animal shall be liable to imprisonment for 10 years.

The case was heard by the Supreme Court of Judicature in May 2013, amid violence and death threats received by LGBT activists. On 10 August 2016, Chief Justice **Kenneth Benjamin** ruled that Section 53 of the Criminal Code of Belize contravened constitutional protections of equality, dignity and personal privacy. Benjamin reiterated that the court was required to make a legal ruling rather than a moral judgment. Benjamin ordered that the Criminal Code be amended with the insertion of the phrase "This section shall not apply to consensual sexual acts between adults." He went on to state that the Belizean Constitution must be consistent with international interpretations and clarified that "sex" as mentioned in Section 16(3) of the Constitution, includes sexual orientation.

The Supreme Court ruling is currently being appealed to the Caribbean Court of Justice.

C. Positive Impact on Supreme Court Ruling:

Belize's sodomy ban was the first one in a former British colony in the Caribbean to be judicially overturned. It was also the last sodomy ban in Central America to be struck down.

The Chief Justice also accepted that removing the section would help accelerate the fight against HIV, especially among men who have sex with men (MSM), who are stigmatized and thus refuse to participate in testing and treatment programs.

The legal groups invoked the International Covenant of Civil and Political Rights in their argument, with the knowledge that should the appeals court rule in Orozco's favor on that basis, other jurisdictions would find the criminalization of sodomy very hard to justify.

Belize also has a law prohibiting foreign homosexuals from entering the country, although the law has never been enforced. However, the court ruling striking down the sodomy law also stated that the Constitution barred discrimination based on one's sexual orientation.

End