

ACCESS TO JUSTICE FOR CHILDREN: BELIZE

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I. What is the legal status of the Convention on the Rights of the Child (CRC)?

A. What is the status of the CRC and other relevant ratified international instruments in the national legal system?

Belize ratified the CRC on 2 September 1990.¹ In *Bowen and Jones v. Attorney General* the Supreme Court of Belize held that the CRC applies in Belize.²

B. Does the CRC take precedence over national law?

The Constitution is the supreme law of Belize and if any other law is inconsistent with this Constitution that other law shall, to the extent of the inconsistency, be void.³ In *Bowen and Jones v. Attorney General*, the Supreme Court held the CRC takes precedence over later adopted domestic legislation that conflicts with the Convention.⁴ Thus, as a general matter, the CRC does take precedence over national legislation but is subordinate to the Belizean Constitution.

In general, section 65(b) of the Interpretation Act provides that “a construction which is consistent with the international obligations of the Government of Belize is to be preferred to a construction which is not.”⁵

C. Has the CRC been incorporated into national law?

Yes. The Supreme Court of Belize in *Bowen and Jones v. Attorney General* concluded that the CRC is incorporated in domestic law⁶ through Article 4(c) of Schedule 1 to the Families and Children Act, which provides:

“A child shall have the right . . . to exercise, in addition to all the rights stated in this Schedule and the Act, all the rights set out in the [CRC], with appropriate modifications to suit the circumstances in Belize, that are not specifically mentioned in the Act or in this Schedule.”⁷

¹ *Anthony Bowen and David Jones v. The Attorney General of Belize*, Claim No. 214 of 2007 (Belize Supreme Court, 27 September 2010), paras. 110-112, available at: <https://www.crin.org/en/library/legal-database/bowen-v-belize>.

² *Bowen v. Att’y Gen.*, para. 110.

³ Constitution of Belize, Article 2, available at: http://www.belize-law.org/web/e_library/constitution.html.

⁴ *Bowen v. Att’y Gen.*, para. 115.

⁵ *Bowen v. Att’y Gen.*, para. 115.

⁶ *Bowen v. Att’y Gen.*, para. 115.

⁷ Families and Children Act, Schedule 1, Article 4(c), available at:

However, it is important to note that under the Act, the CRC vests rights in the children of Belize “with appropriate modifications to suit the circumstances in Belize.”⁸ It is therefore unclear whether the CRC will be deemed incorporated in its entirety.

There is no comprehensive children’s code in Belize, although enacting such legislation has been recommended by the UN Committee on the Rights of the Child.⁹

D. Can the CRC be directly enforced in the courts?

Yes. The CRC was directly enforced in *Bowen and Jones v. Attorney General*.¹⁰

The somewhat haphazard incorporation of the CRC by reference could create issues in efforts to directly enforce the CRC in the future. In particular, the actual extent of the incorporation is unclear. According to the Act, Belizean children shall enjoy “all the rights set out in the [CRC], with appropriate modifications to suit the circumstances in Belize.”¹¹ Likewise, guidance from the Supreme Court of Belize is that “the CRC does apply in Belize and that the [incorporation of the CRC] of the Families and Children Act can operate *depending on the issue . . .*”¹²

E. Are there examples of domestic courts using or applying the CRC or other relevant international instruments?

The Supreme Court of Belize enforced the CRC on at least one occasion. In *Bowen and Jones v. Attorney General of Belize*, the Supreme Court determined that a domestic provision imposing a mandatory life sentence without possibility of parole on persons aged eighteen or under at the time of commission of the crime contradicts Article 37(a) of the CRC and is, therefore, unenforceable.

The Supreme Court has also cited other international human rights instruments in some of its decisions. For example, in *Cal et al. v. Attorney General of Belize*, the Court was guided by the American Convention on Human Rights, the Inter-American Court on Human Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination, referring to these documents as a source of interpretative authority.¹³

http://www.oas.org/dil/Families_and_Children_Act_Belize.pdf.

⁸ Families and Children Act, Article 4(c).

⁹ UN Committee on the Rights of the Child, *Concluding Observations on the second periodic report of Belize*, CRC/C/15/Add.252, 31 March 2005, para. 10, available at:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2f15%2fAdd.252&Lang=en.

¹⁰ Claim No. 214 of 2007 (Belize S. Ct. 2010).

¹¹ Families and Children’s Act, Sch. 1, para. 4(c).

¹² *Bowen v. Att’y Gen.*, para. 110 (emphasis added).

¹³ *Aurelio Cal et al. v. Attorney General of Belize*, Claims No. 171 and 172 of 2007, available at:

<http://www.elaw.org/node/1620>.

II. What is the legal status of the child?

A. Can children and/or their representatives bring cases in domestic courts to challenge violations of children's rights?

According to the Belizean government's report to the UN Committee on the Rights of the Child, there is no express statutory provision imposing age restrictions on seeking redress before a court,¹⁴ therefore, it is possible to bring cases alleging violations of the rights of the child, subject to the procedures outlined below.

B. If so, are children of any age permitted to bring these cases by themselves in their own names/on their own behalf, or must the case be brought by or with the assistance of a representative?

In Belize, there is a common law bar to a child suing or authorising any person to sue in his name in relation to all types of cases, except suits to recover "any sum of money which may be due [...] for salary, wages or piece work, or for work as an employee", in which case the child may bring the case "in the same manner as if he were of full age."¹⁵ The same narrow exception is replicated in legislation on access to the district courts.¹⁶ Therefore, any case on behalf of a child must be brought by an adult representative or 'next friend', however, the court has discretion to make an order permitting the minor to conduct proceedings without a next friend.¹⁷ Anyone can act as a next friend, provided that they have no interest adverse to that of the child and that they can conduct proceedings fairly and competently.¹⁸

C. In the case of infants and young children, how would cases typically be brought?

As explained in part II.B, cases have to be initiated by an adult on behalf of the child. There is no distinction for cases involving a young child or infant.

Furthermore, under the Families and Children Act, everyone has a moral obligation to report to the Department of Human Development or the family or magistrate's court if they have reason to believe that any parent, guardian or other person is denying or neglecting to provide a child with adequate food, shelter, clothing, medical care or education.¹⁹

¹⁴ *Second periodic report of Belize to the UN Committee on the Rights of the Child*, CRC/C/CHN/3-4, 28 February 2003, para. 35, available at:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2f65%2fAdd.29&Lang=en

¹⁵ Families and Children Act, Article 13.

¹⁶ District Courts (Procedure) Act, Article 8, available at:

<http://www.belizecitycouncil.org/index.php?module=resourcesmodule&action=view&id=3>.

¹⁷ Supreme Court (Civil Procedure) Rules 2005, rule 23.2, available at:

http://www.belizejudiciary.org/web/wp-content/uploads/2012/10/supreme_court_rules2005.pdf.

¹⁸ Supreme Court (Civil Procedure) Rules, rule 23.6.

¹⁹ Families and Children Act, Article 47.

These reporting obligations are set forth in more detail in subsidiary legislation which impose reporting requirements in relation to child abuse.²⁰ All members of the public, family members, and all public servants dealing with children (e.g., medical service providers, teachers) are obliged to report instances of suspected child abuse to the police or the Department of the Ministry of Social Services.²¹ While the specifically enumerated persons could be liable to fine and/or imprisonment for failure to report, members of the general public are not.²²

D. Would children or their representatives be eligible to receive free or subsidised legal assistance in bringing these kinds of cases?

A legal aid scheme is operated by the Belize Legal Aid Centre²³ for all cases except murder charges and civil claims exceeding \$20,000. The Supreme Court operates a legal aid scheme for murder cases.²⁴

For further information, please see part IV.B below.

E. Are there any other conditions or limits on children or chosen legal representatives bringing cases (e.g., would a child's parents or guardian have to agree to a case being brought)?

No further conditions or limitations were identified.

III. How can children's rights violations be challenged before national courts?

A. If there is a potential violation of the Constitution or other principles established in domestic law, or with the CRC or other relevant ratified international/regional instruments, how can a legal challenge be brought?

Claims alleging a violation of a constitutional right²⁵ may be brought to the Supreme Court directly,²⁶ or where contravention of one of these constitutionally protected rights arises as an issue before a lower court, that court may refer the issue to the Supreme Court.²⁷

Acts and decisions of public authorities may be challenged by means of judicial review proceedings in the Supreme Court.²⁸ An application for judicial review may be submitted by any person with 'sufficient interest' in the subject matter, including a person who has been adversely affected by the act or decision under challenge, a body or organisation acting on their

²⁰ Families and Children (Child Abuse) (Reporting) Regulations, Article 2, available at: http://www.oas.org/dil/Families_and_Children_Subsiary_Act_Belize.pdf.

²¹ Families and Children (Child Abuse) (Reporting) Regulations, Article 4-6.

²² Families and Children (Child Abuse) (Reporting) Regulations, Article 6(1).

²³ Belizean Legal System Website, *Legal Aid Center*, available at:

http://www.belizelaw.org/web/legal_aid.html.

²⁴ *Id.*

²⁵ Constitution of Belize, Articles 3-19.

²⁶ Constitution of Belize, Article 20.

²⁷ Constitution of Belize, Article 20(3).

²⁸ Supreme Court (Civil Procedure) Rules 2005, rule 56.

request or representing persons who may have been adversely affected.²⁹

As mentioned in part II.C, a court action may be brought by the state on the basis of a report by a member of the public or such other person required by law to report a deprivation of rights or a suspected act of suspected child abuse under the Families and Children Act and the Reporting Regulations.³⁰ Upon such report of child abuse to the Department of Social Services or the Police, an investigation shall be conducted, and, as necessary, (i) the child shall be removed from the abusive situation; (ii) appropriate medical examinations shall be conducted; and (iii) criminal proceedings commenced against the perpetrator of the abuse.³¹ In all cases concerning child abuse, the court shall appoint a friend of the court.³²

The Ombudsman is a Parliamentary Commissioner who can investigate any corruption or other wrongdoing by (public) authorities or any action that results in injustice, injury or abuse to any person or body of persons arising out of or connected with the exercise of the authorities' administrative functions.³³ However, the Ombudsman will not investigate complaints related to matters for which a remedy has already been sought in court or before a tribunal; matters that concern the commencement or conduct of civil or criminal proceedings before a court or tribunal; or the exercise of the prerogative of mercy by the Governor General of Belize.³⁴ Complaints may be submitted to the Ombudsman by any person or body of persons who alleges corruption or wrongdoing or who claims to have sustained injustice, injury or abuse.³⁵ If the complainant is a minor, "the complaint may be made by his parent or guardian or any other suitable person".³⁶

Although Belize is a member of Organization of American States, it has not signed or ratified the American Convention on Human Rights. Nonetheless, individuals or groups of individuals, including children, and NGOs may submit petitions to the Inter-American Commission on Human Rights (IACHR),³⁷ on their behalf or on behalf of third persons, regarding alleged

²⁹ Supreme Court (Civil Procedure) Rules, rule 56.2(2)(c).

³⁰ Families and Children Act, Article 99; Families and Children (Child Abuse) (Reporting) Regulations, Article 10.

³¹ Families and Children (Child Abuse) (Reporting) Regulations, Articles 7-12.

³² Families and Children (Child Abuse) (Reporting) Regulations, Article 14:01.

³³ Ombudsman Act, Section 12, available at:

http://www.geneva-academy.ch/RULAC/pdf_state/Ombudsman-Act-2000.pdf. See also <http://cfnhri.org/members/belize/>.

³⁴ Ombudsman Act, Section 13.

³⁵ Ombudsman Act, Section 14(1).

³⁶ Ombudsman Act, Section 14(2)(a).

³⁷ The Inter-American Commission on Human Rights is one of two bodies within the Organisation of American States (OAS) for the promotion and protection of human rights. The other human rights body is the Inter-American Court of Human Rights. The Commission benefits from a "dual role" as its mandate is found in both the Charter of the Organisation of American States, and in the American Convention on Human Rights (ACHR). As an OAS Charter organ, the IACHR performs functions in relation to all OAS Member States. As an organ of the Convention, its functions are applicable only to States that have ratified the ACHR: Charter of the Organisation of American States, Chapter XV, available at: http://www.oas.org/dil/treaties_A-41_Charter_of_the_Organization_of_American_States.htm; American Convention on Human Rights, 'Pact of San Jose, Costa Rica', Chapter VII, available at: http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.htm.

violations of the American Declaration of the Rights and Duties of Man³⁸ and other Inter-American human rights instruments.³⁹ A petition can only be lodged after domestic remedies have been exhausted, and normally must be filed within six months after the final judgment.⁴⁰ The petition must include, amongst other things, the name of the person filing it or, in the case of an NGO, the name of the legal representative, the name(s) of the victim(s) if possible, and whether the petitioner wishes to remain anonymous and the respective reasons.⁴¹ The victim may designate a lawyer or other person to represent him/her before the IACHR, but this is not compulsory.⁴² When a petition is declared admissible, the IACHR attempts to reach a “Friendly Settlement” between the parties concerned. If this is not possible, the IACHR will reach a decision on the merits, which consists of non-binding recommendations to the violating State, aimed at ending the human rights violations, making reparations, and/or making changes to the law.

B. What powers would courts have to review these violations, and what remedies could they offer?

The Supreme Court “may make such declarations and orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of sections 3 to 19 inclusive of this Constitution”.⁴³ The remedies in judicial review proceedings can be administrative order, including *certiorari* (for quashing unlawful acts), *prohibitoria* (for prohibiting unlawful acts) and *mandamus* (for requiring performance of a public duty), as well as an injunction, restitution or damages and an order for the return of property.⁴⁴

Interim relief is available in judicial review cases⁴⁵ as well as in civil cases generally.

⁴⁶

If the Ombudsman determines that there has been an injustice, injury or abuse suffered as a result of actions by an authority, he shall inform that authority of his findings and may make recommendations for remedial action to be taken within a specified time.⁴⁷ The Ombudsman’s recommendations may include that the action resulting in the injustice of injury be reviewed; that laws, rules or regulations which caused or may cause injustice be amended; or, that compensation be made. If the authority fails to take such action, the Ombudsman can submit a report to the National Assembly.⁴⁸

³⁸ Available at: <https://www.cidh.oas.org/Basicos/English/Basic2.American%20Declaration.htm>.

³⁹ Statute of the Inter-American Commission on Human Rights, Section IV, available at: <http://www.oas.org/en/iachr/mandate/Basics/statuteiachr.asp>.

⁴⁰ Rules of Procedure of the Inter-American Commission on Human Rights, Articles 31-32, available at: <http://www.oas.org/en/iachr/mandate/Basics/rulesiachr.asp>.

⁴¹ *Ibid.*, Article 28.

⁴² *Ibid.*, Article 23.

⁴³ Constitution of Belize, Article 20(2).

⁴⁴ Supreme Court (Civil Procedure) Rules, rule 56.1(3)-(4).

⁴⁵ Supreme Court (Civil Procedure) Rules, rule 56(9).

⁴⁶ Supreme Court (Civil Procedure) Rules, rule 17.

⁴⁷ Ombudsman Act, Section 21(1) and (5).

⁴⁸ Ombudsman Act, Section 21(2).

If the Ombudsman finds that the authority's action was in breach of a statutory duty or code of conduct or amounted to a criminal offence, he shall refer the complaint for disciplinary or other proceedings. For criminal offence, he shall report the matter to the Director of Public Prosecutions for necessary action. In all complaints involving disciplinary or criminal proceedings, the Ombudsman shall lay a special report to the National Assembly.⁴⁹

C. Would such a challenge have to directly involve one or more individual child victims, or is it possible to challenge a law or action without naming a specific victim?

Legal challenge without naming individual victims appears to be possible only in the form of judicial review proceedings initiated by an organisation acting in the public interest, as explained in part III.E below.

There are also extensive confidentiality provisions under the Reporting Regulations. For example, the name of the abused child cannot be disclosed without permission of the court⁵⁰ and all court records relating to child abuse are to be kept "strictly confidential" and may be disclosed to a member of the public only by court order.⁵¹ Moreover, the child's testimony must be presented in such a way so as to ensure the child's privacy and protection.⁵²

The Ombudsman Act does not preclude the investigation of a complaint without naming the individual child victim(s). Additionally, all investigations and proceedings before the Ombudsman are absolutely privileged in the same manner as enquiry and proceedings in a court of law⁵³, and employees and agents are required to take an oath of secrecy.

D. Is any form of collective action or group litigation possible, with or without naming individual victims?

Representative action is possible where five or more persons have the same or similar interest in the proceedings.⁵⁴ There do not appear to be any limits on the type of civil case for which representative proceedings may be started, therefore, it could be used in cases concerning violations of children's rights.

Any person or body of persons may complain to the Ombudsman. Therefore, collective action or group complaint is possible.

E. Are non-governmental organisations permitted to file challenges to potential children's rights violations or to intervene in cases that have already been filed?

⁴⁹ Ombudsman Act, Section 22(1) and 22(2)

⁵⁰ Families and Children (Child Abuse) (Reporting) Regulations, Article 13.

⁵¹ Families and Children (Child Abuse) (Reporting) Regulations, Article 14(1).

⁵² Families and Children (Child Abuse) (Reporting) Regulations, Article 13:01.

⁵³ Ombudsman Act, Section 24(2)

⁵⁴ Supreme Court (Civil Procedure) Rules 2005, rule 21.1.

Non-governmental organisations (NGOs) may bring judicial review proceedings provided they can demonstrate ‘sufficient interest’ in the subject matter of the application and that the matter is of ‘public interest’ and the organisation possesses expertise in that matter.⁵⁵

Belize’s Second Periodic Report to the UN Committee on the Rights of the Child noted that the involvement of NGOs in proceedings, e.g. as interveners, merits further consideration,⁵⁶ however, it is not known whether any steps have been taken by the government in that regard.

Any person or body of persons may complain to the Ombudsman, other than an authority, or body or authority constituted for the purposes of the public service⁵⁷; an authority is defined as governmental in nature. Therefore it is possible for a non-governmental organisation to be a complainant. However the NGO must have a sufficient interest in the subject matter of the complaint.

IV. Practical considerations. Please detail some of the practical issues, risks and uncertainties that might be involved in bringing a case to challenge a violation of children's rights, such as:

A. **Venue.** In what courts could a case be filed (e.g., civil, criminal, administrative, etc.)? What would the initial filing process entail?

The Family Courts have jurisdiction over all matters pertaining to the Families and Children Act.⁵⁸ Other civil claims which do not exceed 15,000 Belizean dollars must be commenced in the district courts.⁵⁹

The Supreme Court can be the court of original jurisdiction for any civil or criminal law matter.⁶⁰

Civil actions are commenced with a statement of claim, which must include a short description of the claim, the remedy being sought and other details about the claimant.⁶¹

Applications for judicial review must include the names and contact details of the parties, the relief being sought, the grounds on which relief is sought and other details about the case.⁶²

Complaints to the Ombudsman must be made in writing.⁶³

⁵⁵ Supreme Court (Civil Procedure) Rules 2005, rule 56.2(2)(e).

⁵⁶ *Second periodic report of Belize*, para. 156.

⁵⁷ Ombudsman Act, Section 14(1)(a) and (b)

⁵⁸ Family Courts Act, Article 6 & Schedule, available at: http://www.oas.org/dil/Family_Courts_Act_Belize.pdf.

⁵⁹ District Courts (Procedure) Act, Article 3, available at: <http://www.belizecitycouncil.org/index.php?module=resourcesmodule&action=view&id=3>.

⁶⁰ See <http://www.belizejudiciary.org/web/>.

⁶¹ Supreme Court (Civil Procedure) Rules, rule 8.

⁶² Supreme Court (Civil Procedure) Rules, rule 56.3(3).

⁶³ Ombudsman Act, Section 14(3).

- B. Legal aid / Court costs. Under what conditions would free or subsidised legal aid be available to child complainants or their representatives through the court system (i.e., would the case have to present an important legal question or demonstrate a likelihood of success)? Would child complainants or their representatives be expected to pay court costs or cover other expenses?

Legal aid resources in Belize appear to be quite limited. The Belize Legal Aid Center is formed for the purpose of providing legal aid to clients falling within a certain means test, but it appears to have very limited resources, calling into question its potential value to a child seeking assistance for litigating their rights. According to its website, “[w]hile 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.”⁶⁴

The National Assembly may authorise the Ombudsman to appoint a solicitor to institute a civil lawsuit for damages on behalf of the complainant if the Ombudsman Special Report discloses that the authority breached a duty or conduct; this breach caused damage to the complainant’s person or property; recovery of damages by civil lawsuit is advisable; and the complainant is indigent.⁶⁵ The Ombudsman may incur expenses by way of legal fees and stamp duties not exceeding 1000 dollars for any one complaint.⁶⁶

- C. Pro bono / Financing. If legal aid is not available, would it be possible for child complainants or their representatives to obtain legal assistance from practicing lawyers on a pro bono basis, through a children’s rights organization, or under an agreement that does not require the payment of legal fees up front?

Research did not identify any organisation providing pro bono representation specifically to children in Belize.

There appears to be a shortage of advocates for vulnerable populations in Belize, generally. According to the *2010 Human Rights Report: Belize*,⁶⁷ there are multiple accounts of persons accused of murder being tried without counsel, notwithstanding the obligation of the registrar of the Supreme Court to appoint counsel for them.

- D. Timing. How soon after a violation would a case have to be brought? Are there any special provisions that allow young adults to bring cases about violations of their rights that occurred when they were children?

Limitation periods in relation to civil actions are set out by legislation,⁶⁸ for example, some claims against public authorities must be commenced within

⁶⁴ Belizean Legal System Website, *Legal Aid Center*, available at: http://www.belizelaw.org/web/legal_aid.html.

⁶⁵ Ombudsman Act, Section 22(2).

⁶⁶ Ombudsman Act, Section 22(3).

⁶⁷ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, *2010 Human Rights Report: Belize* (April 2011) available at: <http://www.state.gov/j/drl/rls/hrrpt/2010/wha/154494.htm>.

⁶⁸ Limitation Act, available at: <http://wavedancerremembered.com/Belize/BelizeLimitationAct.pdf>.

one year of the act or failure to act which gives rise to the complaint.⁶⁹ Additionally, one month's written notice has to be given before certain civil claims may be brought against public authorities.⁷⁰

Applications for judicial review, however, must be made within three months from the date on which the grounds for the application first arose, but the court may accept the application at a later date where it considers there is a good reason to do so.⁷¹

The Ombudsman cannot investigate any matter or action which arose or was taken before 31 March 1989.⁷² The Ombudsman may refuse to investigate a matter, if he determines that the complainant has deferred submitting the complaint for too long,⁷³ however, no exact time frame is specified.

Research did not identify any statutory provision permitting adults to pursue claims for violations of their rights that occurred before they reached the age of majority.

- E. Evidence. What sort of evidence is admissible/required to prove a violation? Are there particular rules, procedures or practices for dealing with evidence that is produced or presented by children?

In any case under the Families and Children Act, a court may request a report on the welfare of the child, which can be made in writing or orally.⁷⁴ The report must be made on the basis of a home visit, an interview of the child's parents or guardians, and, if of sufficient age and understanding, an interview of the child.⁷⁵ The court has an obligation consider the report in making a determination with respect to the protection of the child.⁷⁶

The Families and Children Act also has special provisions regarding evidence given by or with respect to children. A child may be called as a witness so long as, in the opinion of the court, the child understands the nature of an oath; where the court does not believe that the child understands the nature of an oath, the child may still provide evidence if the court concludes that the child understands the duty to speak the truth and has "sufficient understanding to justify his evidence being heard."⁷⁷ The rules of hearsay are inapplicable with respect to (a) evidence regarding the upbringing, maintenance, or welfare of a child; and (b) statements by

⁶⁹ Limitation Act, Article 27.

⁷⁰ Public Authorities Protection Act, Section 3 as cited in *Belize Electricity Limited v. Belize City Council*, Supreme Court of Belize Claim No. 113 of 2013, available at: <http://www.belizejudiciary.org/web/wp-content/uploads/2013/01/Supreme-Court-Claim-No.-113-of-2013-Belize-Electricity-Limited-v-Belize-City-Council.pdf>.

⁷¹ Supreme Court (Civil Procedure) Rules, rule 56.5(3).

⁷² Ombudsman Act, Section 12.

⁷³ Ombudsman Act, Section 15(1)(c).

⁷⁴ Families and Children Act, Article 9.

⁷⁵ Families and Children Act, Article 99(3)-(4).

⁷⁶ Families and Children Act, Article 99(1); *see also* Families and Children Act, Article 99(7) (if the court disagrees with a recommendation of the report, it must "state and record its reasons for not complying with the recommendation").

⁷⁷ Families and Children Act, Article 152.

(i) children, (ii) persons concerned with or having control of a child that has been assaulted, neglected, or ill treated, or (iii) a guardian *ad litem* made in any report.⁷⁸

As to evidence provided by children, the Reporting Regulations provide for the confidentiality of the identity of the child and the court records, generally,⁷⁹ and further provide that “[a] child giving evidence in a child abuse case shall give evidence from behind a screen or other means of concealment in order to ensure the child’s privacy and protection.”⁸⁰

Finally, it is worth mentioning that, out of concern over witness intimidation, a law was passed permitting written statements by witnesses to be admitted into evidence in place of court appearances, however, courts have been requiring a high degree of proof relating to such statements prior to admitting them.⁸¹

To invoke the Ombudsman’s investigative powers, the complainant has to establish reasonable cause. For the purposes of investigation, the Ombudsman has the same powers as a Judge of the Supreme Court in respect of the attendance and examination of witnesses and production of documents.⁸² He may summon the complainant; any officer, member or employee of an authority; or, any other person who is able to give assistance to the investigation to provide relevant information and produce documents or things in his possession or control.

F. Resolution. How long might it take to get a decision from the court as to whether there has been a violation?

It has been reported that there are lengthy trial backlogs in Belizean courts owing to a number of factors, including under-resourced prosecution services, and that judges are frequently slow to issue rulings, sometimes taking a year or longer.⁸³ Research did not identify any laws providing for speedier resolution of cases concerning breaches of children’s rights.

The protocol for complaints - at least the ones involving gender based violence - is that they be resolved within ninety days after the complaint is first made to the Ombudsman. Because of the backlog of complaints, bureaucratic procedures and other factors, the resolution of complaints usually takes between one to three years.⁸⁴

G. Appeal. What are the possibilities for appealing a decision to a higher court?

Appeals from the Family Courts are taken to the Supreme Court⁸⁵ and

⁷⁸ Families and Children Act, Article 152.

⁷⁹ Families and Children (Child Abuse) (Reporting) Regulations, Articles 13 and 14.

⁸⁰ Families and Children (Child Abuse) (Reporting) Regulations, Article 13:01.

⁸¹ *2010 Human Rights Report: Belize*, p. 8.

⁸² Ombudsman Act, Section 18(3)

⁸³ *2010 Human Rights Report: Belize*, p. 8.

⁸⁴ Information provided by the Office of the Ombudsman of Belize.

⁸⁵ Family Courts Act, Article 17.

appeals from the Supreme Court are taken to the Court of Appeal.⁸⁶

Finally, decisions in civil and criminal matters as well as decisions concerning fundamental rights under the Constitution can be appealed to the Caribbean Court of Justice (CCJ), which is the highest court of appeal for Belize.⁸⁷ An appeal is commenced by filing a notice of appeal within 21 days of the grant of leave to appeal by the court below or special leave by the CCJ, depending on the nature of the case.⁸⁸ In all proceedings before the CCJ, a party must have an attorney-at-law on the record.⁸⁹ An applicant who is a “poor person” may be exempt from providing security for costs or paying any court fees.⁹⁰ Decisions of the CCJ are final and binding.⁹¹

- H. **Impact.** What are the potential short-term and long-term impacts of a negative decision? Is there a possibility for political backlash or repercussions from a positive decision?

Belize has a common law legal system, which means that judicial decisions are a source of law and the effect of a negative decision could be felt for a long time. However, this also gives the courts the opportunity to develop the law to ensure the observance of children’s rights, as the Supreme Court did in the *Bowen* case by holding that the CRC is applicable in Belize.

- I. **Follow up.** What other concerns or challenges might be anticipated in enforcing a positive decision?

It is difficult to say what are the practical challenges to enforcing judicial decision, however, it should be noted that there are reports of inefficiency within the justice system in Belize.⁹²

- V. **Additional factors.** Please list any other national laws, policies or practices you believe would be relevant to consider when contemplating legal action to challenge a violation of children's rights.

No additional factors were identified.

This report is provided for educational and informational purposes only and should not be construed as legal advice.

⁸⁶ Constitution, Article 20(3).

⁸⁷ Agreement Establishing the Caribbean Court of Justice, Article XXV, available at: http://www.caricom.org/jsp/secretariat/legal_instruments/agreement_ccj.pdf.

⁸⁸ Ibid.; Caribbean Court of Justice (Appellate Jurisdiction) (Amendment) Rules, 2008, Rules 10.1, 10.2, 11.1, available at: <http://www.caribbeancourtsofjustice.org/wp-content/uploads/2011/06/ccjapprules.pdf>.

⁸⁹ Caribbean Court of Justice (Appellate Jurisdiction) (Amendment) Rules, 2008, Rule 4.1.

⁹⁰ Ibid., Rule 10.17.

⁹¹ Agreement Establishing the Caribbean Court of Justice, Article XXII.

⁹² International Security Sector Advisory Team (ISSAT) website, *Belize Country Profile*, available at: <http://issat.dcaf.ch/Home/Community-of-Practice/Resource-Library/Country-Profiles/Belize-Country-Profile>.