

ABOUT ME

My name is Kim Simplis Barrow. I have been Belize's Special Envoy for Women and Children since 2009, and I am the Spouse of the Prime Minister of Belize.

My role as Special Envoy did not come with a job description. In fact - to begin with - it didn't come with any staff, a budget, a mandate for change, or much expectation either.

Certainly, no one expected me, with the support of just the Ministry of Human Development, Social Transformation and Poverty Alleviation, to spearhead an initiative to overhaul our archaic Criminal Code. But that's exactly what we did, and I would like to tell you why.

WHY WE FELT THE NEED TO REFORM OUR SEXUAL OFFENCES LAWS

There was a growing concern with the number of miscarriages of justice seen passing through our courts.

As the Special Envoy for Women and Children, I was heavily invested in the prevention of sexual assault, the victims of which tended to be young girls and boys. With the help and constant support of the Ministry of Human Development, I pulled in resources from wherever I could to run a public education campaign. We even produced a children's booklet, titled *"My Body is Precious"*, targeted

at children between the ages of five to twelve years old. Going countrywide, we aimed to teach children to recognize a 'good touch, bad touch,' and to empower them to find their voices to speak out.

But it wasn't enough. Even when sexual offences were being reported and investigated, crimes were often not properly recognized, nor were perpetrators given adequate penalties.

Whenever it seemed that justice had not been served, I would write to the court, to the judges, and even to the Chief Justice.

In one such letter we addressed the case of Hipolito Itza, a 36-year-old man who had been charged under the 'carnal knowledge against the order of nature' offence. His victim was a 14-year-old girl. We were horrified to learn that the judge granted bail, initially attempting to make it a condition that the perpetrator marries his teenage victim. While the judge's comments are symptomatic of a wider problem with social attitudes, those attitudes were also being influenced by a legal reality; i.e. that in law a man could not 'rape' his wife. It was also problematic that the prosecutors were using the carnal knowledge provision rather than the rape provision; and if the victim had been a boy, they would have had no choice, as our rape law did not protect male victims of rape. The entire legal regime was deficient.

This brochure was produced by the Human Dignity Trust on behalf of the Equality & Justice Alliance.

THE PROBLEM

Judges would often express that their hands were tied. Yes, it was for them to make judgments, but they could only base their rulings on the 'rulebook', as it were.

This rulebook, as far as sexual offences were concerned, was the Belize Criminal Code. Reading it over back then, I personally was shocked. The text was full of outdated, even offensive, language; for example, it referred to people with learning disabilities as 'idiots'. But even more worrying was the content: married women had no protection from being raped by their husbands. Meanwhile, boys (and men) were not even recognized as potential victims of sexual assault.

"RULINGS CAN ONLY BE BASED ON THE RULEBOOK; WE NEEDED A NEW RULEBOOK"

"Rape is the carnal knowledge of a female of any age without her consent."

"A male spouse commits marital rape against the female spouse if the first mentioned spouse has sexual intercourse with the other spouse without consent ... [only if the spouses are separated or proceedings for dissolution of the marriage have been instituted]."

i.e. within marriage husbands were allowed to force sex upon their wives at any time with impunity.

"Every person who carnally knows a female child under the age of fourteen years, with or without her consent, shall on conviction on indictment be imprisoned for a term which shall not be less than twelve years but which may extend to imprisonment for life."

"Any person who unlawfully and carnally knows any female idiot or imbecile woman or girl, under circumstances which do not amount to rape, but which prove that the offender knew at the time of the commission of the crime that the woman or girl was an idiot or imbecile, shall be guilty of an offence and on conviction thereof be imprisoned for a term which shall not be less than five years nor more than ten years."

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

I am not a lawyer, but it was obvious that our Criminal Code was failing to protect the most vulnerable people in our society; it was not fit for purpose.

What we read were antiquated values written in Victorian English for colonial Britain. Nothing in this so-called rulebook resembled what we knew of modern-day society in Belize, where priority lied in respecting and valuing the equality and rights of all our citizens – male and female, young and old, able-bodied and disabled.

What we needed, then, was a new rulebook.

THE PROCESS

The road from realization to actual change was not a short one. In between the first meeting my office, alongside Ms. Judith Alpuche, Chief Executive Officer of the Ministry of Human Development, Social Transformation, and Poverty Alleviation, called to set in motion a plan to redraft the *Criminal Code*, and the revised legislation passing through the House of Representatives, was five long years.

However, the journey was not especially difficult. We needed patience and tenacity, but there were no insurmountable obstacles.

The first step of many was to recognize that we - my staff and I along with the Ministry of Human Development - could not work in a silo. We made strategic alliances, ensuring that there were key and influential people on hand to support our plan. In practical terms, this meant a lot of meetings - with civil

society, faith groups, political parties, thought leaders – all around the country.

When first seeking to persuade others of our argument for change, we would look to the obvious things. 'Did you know that our Criminal Code still uses the word 'idiot' to denote a person with a learning disability?' There are some things that no one can argue with. We would move from there through the steps necessary to arrive at the right way of thinking.

Aside from the Ministry of Human Development, other government departments were also involved from the beginning. These included the National Women's Commission and the National Committee for Women and Children.

A working session was held with the Chief Justice and other judges in which we outlined the changes we wanted to see. They contributed to early drafts before the proposal went to the Attorney General's department.

It was important that we managed to stay above the political party noise. Our only aim was to better protect our citizens including our children and to properly challenge the perpetrators of sexual offences. We kept our message strong and clear, which led to cross-governmental support, as well as buy-in from religious leaders and civil society. We always had examples on hand, of cases that perfectly illustrated the inadequacy of the old Criminal Code and produced them whenever necessary.

In 2013, our proposed revision of the Criminal Code went to the House and was met with no resistance from politicians.

A legal challenge to the provision of our Criminal Code that criminalized private same-sex intimacy between adults was going through our courts at about the same time as the revision of the sexual offences laws. As that outdated provision had already been before the courts since 2010, we left it to the judiciary, and happily the Chief Justice ruled in 2016 that the provision was inconsistent with our Constitution. My husband, as Prime Minister, said publicly in 2013 that while religious groups are fully entitled to their views on homosexuality, as a nation we cannot deny anyone equality before the law. I'm very proud of him for that.

CHALLENGES

The delays we experienced throughout the process of change were largely due to sparse capacity and the plodding nature of government bureaucracy. We have limited resources in Belize and it was necessary to wait (while constantly applying appropriate pressure) for our turn among the considerable backlog of cases and issues on the Attorney General's desk. We eventually succeeded in getting one lead lawyer to put together the final draft of the new Criminal Code.

"WE MADE STRATEGIC ALLIANCES AND EXERCISED PATIENCE AND TENACITY"

There was opposition from louder sections of the Evangelical Church, who took issue with the gender-neutral

language in our proposed revision. Opposers also sought to link all reform efforts to a so-called 'gay agenda.' The initiatives were painted negatively and misconstrued in all sorts of ways.

In answer to some of these challenges, I call to mind a phrase we use in Belize: 'Don't throw stones at every dog that barks.' In other words, we picked our battles carefully, and

were not moved to respond to every little thing. We kept our victim-centred message consistent, made it public from the beginning, and bided our time when we had to.

LESSONS LEARNED

We were very local in our approach to the redraft of the Criminal Code, but given the chance to do it over again, I believe we would have looked internationally for examples and inspiration. There is so much we have in common with other Commonwealth nations, including an inherited legal framework. We could also have used international technical assistance

"DON'T THROW STONES AT EVERY DOG THAT BARKS"

including legislative drafting capacity to speed things up, given that we are a small country with limited resources.

If I have any words of wisdom, they would be to remember the potential for gaps and loopholes to become apparent in newly reformed legislation. I would advise anyone undertaking a modernization of their own Criminal Code to ask several great legal minds to examine their redraft thoroughly, perhaps by setting up a mock criminal trial where the aim is for lawyers to try to find a way to get around the new rights-based provisions, to be sure the courts would have a new rulebook that was airtight. Then test it, and test it again.

THE OUTCOME

One immediate, measurable outcome of the reforms that we have seen in Belize is a sharp increase in the reporting of sexual offences. Straight away victims felt more empowered to challenge sexual abuse and harassment; we have removed some of the barriers that the old Criminal Code had embedded in our criminal justice system.

Importantly, Belize is now sending the right message, both domestically and internationally, about the kind of society we are: modern, rights-based, tolerant, and scrupulous in our equal protection of our citizens against sexual violence.

There have been no negative impacts in society or within government from taking on this reform of our laws. The sky certainly didn't fall and the opponents of reform are still able to express their views.

Belize is being recognized internationally for our reforms. For one, I am delighted to be a part of the Commonwealth Group of Experts on Reform of Discriminatory Sexual Offences and Related Laws.

Personally, this has been a rewarding journey. When I first started working alongside Ms. Alpuche at the Ministry of Human Development as well as our other partners, I never envisaged that I would receive such recognition. It will be a proud part of the legacy of my public roles.

THE RIGHT THING

The reconstruction of an anachronous rulebook does not happen overnight. I would urge anyone blazing a trail in the name of the victims of sexual offences to keep in mind the human component as motivation.

The voiceless victims, the people who are unprotected and discriminated against, who are let down by a substandard set of laws: theirs are the stories that will keep the process going.

After all, when you are going the right way, all you have to do is keep moving forward.



MODERNISING SEXUAL OFFENCES LAWS: OUR JOURNEY

"Belize is now sending the right message domestically and internationally"

Get in touch: info@equalityjusticealliance.org