

**ADDRESS BY HON. CHIEF JUSTICE KENNETH BENJAMIN TO MARK
THE FORMAL OPENING OF THE SUPREME COURT FOR THE LAW
YEAR 2020 ON MONDAY JANUARY 13, 2020**

YOUR EXCELLENCY, Sir Colville Young, Governor General of Belize

Her Ladyship, Mde. Justice Minnet Hafiz=Bertram, Justice of Appeal

His Lordship, Mr. Justice Sammuel Awich

My Lords, Madam Justices Arana, Young and Williams

My Lords, Justices Lord, Abel, Cumberbatch and Williams

Hon. Wilfred Elrington, SC representing the Hon. Attorney General

Your Honour, Chief Magistrate Sharon Fraser

Your Honours, Senior Magistrates Arana, Ford and Pitts-Anderson and Magistrates
of the District Court

Director of the Belize Family Court, His Honour Dale Cayetano and Your Honours,
Magistrates of the Family Court

Madam Solicitor General, Mrs. Elisa Montalvo

Your Excellencies, Members of the Diplomatic Corps.

I pause here and crave your Excellency's indulgence to recognize:

Her Excellency, Claire Evans, British High Commissioner

His Excellency Remus Li-Kuo Chen, Ambassador of the Republic of China
(Taiwan) to Belize,

Mr. Keith Gilges, Charge d' Affaires and Head of Mission of the Embassy of the
United States of America in Belize

I wish to recognize all other members of the Diplomatic and Consular Corps.

I recognize

Mr. Andreas Wissner, Head of the National Office of the UN High Commissioner
for Refugees

Mr. Lionel Arzu, Ombudsman

Registrar of the Supreme Court, Ms. Trenia Young

Commissioner of Police, Mr. Chester Williams

Learned Senior Counsel of the Inner Bar, Lois Young

Learned Counsel of the Utter Bar – both Public and Private

Superintendent of Prisons, Mr. Virgilio Murillo

Members of the Clergy

Commissioners of the Supreme Court

Senior Justices of the Peace and Justices of the Peace

Members of staff of the General Registry, of the Magistracy Department and of the Attorney General's Ministry

Representatives of the Media – Print, Audio and Visual

Other Distinguished Invitees

Ladies and Gentlemen

A pleasant good morning to all!

INTRODUCTION

The Law Year of 2019 drew to a close on the 31st day of December 2019. It accordingly behoves the Judicial arm of the State to give an account of its performance and the resources allocated by Legislature to fulfil its mandate under the Belize Constitution, Chapter 4 of the Substantive Laws of Belize Revised Edition 2011. In addition, it is timely to address plans for the present year 2020. The courts must obligatorily interpret the laws passed by the Legislature and develop the common law in a manner that is not seen as being in conflict with the role of the Legislature.

Indeed, in a Press Release issued in February 2019, the Judiciary sought to re-assure the public that it remains resolute in its task of dispensing justice to all persons without fear or favour.

As has been oft iterated from the Bench on these formal occasions, the funding of the Judiciary is reliant upon processes operated by the Legislature and the Executive. For good governance to prevail there must be goodwill and civilized cohesion based on the doctrine of the Separation of Powers.

Following upon the foregoing, it would be salutary to thank the Madam Solicitor General and the administrative staff of the Attorney General's Ministry as parent Ministry for the stalwart support rendered to the Judiciary, the Magistracy Department and the General Registry throughout the year 2019. Copious expressions of appreciation are justly deserved for this administrative pillar upon which the Judiciary has come to rely upon.

BUDGETARY ALLOCATION

The work of the Judiciary was predominantly funded from the National Budget as per allocations made for the fiscal years of 2018-2019 and 2019-2020. These allocations were supplemented to a minor but by no means insignificant degree by contributions from external sources by way of capacity building, initiatives and physical plant and other resources, especially in the area of technology.

As I mentioned last year the sum of \$10,061,754 was allocated for the fiscal year 2018-2019 which closed on March 31, 2019. The present fiscal year 2019-2020 is being funded by an allocation of \$8,976,387. Although the numerical reduction appears to be significantly reduced, it must be borne in mind that the Cost Centre for

the Vital Statistics Unit has been removed from that of the General Registry. Therefore, the percentage of the National Budget remained steady at 0.95%.

Projected appropriations for 2020-2021 are being finalized and hopefully there is no reduction in the numerical amount or the percentage. Any reduction would obviously impact the capacity of the Judiciary to provide judicial services to the people of Belize.

JUDICIAL PERSONNEL

With the retirement of Justice Tradio Gonzalez, Adolph Lucas and Denis Hanamonsingh in December 2017 and December 2018, His Excellency the Governor General has been pleased to accept the recommendation of the Judicial and Legal Service Commission, with the concurrence of the Rt. Hon. Prime Minister, of the appointment of Hon. Mde. Justice Marilyn Williams, Hon. Mr. Justice Francis Cumberbatch and Hon. Mr. Justice Colin Williams as Justices of the Supreme Court. The Justices enjoy full tenure and are all assigned to the Criminal Division. Given the state of the lists of criminal cases in Belize City and the Southern session, to say that the Justices were forced to hit the ground running, would be a gross understatement.

The Hon. Mde. Justice Shona Griffith has tendered her resignation to His Excellency the Governor General to take effect from the 31st day of January 2020. Justice Griffith has been a judge of the Civil Division since March 10, 2014. Prior to that, she served as Senior Magistrate in Punta Gorda and Belmopan from October 2011. We thank Justice Griffith for her yeoman service of over 8 years as a judicial officer and as judicial educator and mentor to Magistrates. We wish her all the very best in her future endeavours.

In the course of 2020, three Justices and myself will attain the retirement age of 65 years. The process of succession lies within the province of the Judicial and Legal Services Commission and the Rt. Hon. Prime Minister within the constraints of the Constitution and is being addressed.

The Magistracy has accepted the resignation of Ms. Michelle Trapp in August 2019 and we thank her for her service both on and off the bench. In the course of the year, the Magistracy has re-admitted to its ranks Ms. Merlene Moodie, Mr. Edd Usher and Ms. Margaret McKenzie who have previously served as Senior Magistrate, Magistrate and Chief Magistrate respectively. These persons bring considerable

experience to the Bench albeit for an abbreviated period on this occasion. Mag. Usher replaces Major Lionel Olivera of the Belize Defence Force whose secondment came to an end and who has returned to his substantive assignment. We wish to thank Major Olivera for offering himself for service and the Commander of the BDF for allowing him to be released to the Magistracy.

The complement of Magistrates remains below the required number notwithstanding an advertisement to fill vacancies. A call is once again issued to Attorneys-at-Law to offer their services.

The Belize Family Court has seen the transfer of Magistrate Ivy Pitts permanently to the Family Court in Punta Gorda in the Toledo Judicial District. Since then the complement of Family Court Magistrates has been increased by the appointment of Ms. Tanisha Smith to preside in Belize City.

GENERAL REGISTRY

The substantive Deputy Registrar of the Supreme Court, Ms. Sabita Maharaj, resigned with effect from the 31st day of October 2019. The vacancy will be filled imminently from within the judicial establishment. So too, will the post of Assistant Registrar which became vacant in December 2019. We thank Ms. Maharaj for her service and wish her the best in her future undertaking.

The General Registry was joined by three new Marshalls, namely Ms. Giselle Sampson, Mr. Jomo Elrington and Mr. Raheem Sampson. They have all been deployed in Belize City.

CIVIL DIVISION

A grand total of 1,482 proceedings were commenced in the Supreme Court. These included 392 divorces filed during 2019. 356 Decree **Nisi orders** were issued during the same period. The case disposition ratio has not yet become available.

It is noteworthy that the filings yielded aggregate revenue of \$237,958.50

CRIMINAL DIVISION

The work of the Judges of the Criminal Division has been very heartening when the disposal numbers are viewed. Last year, I highlighted the volume of cases traversed from previous Judges. In summary, in Belize District sitting in Belize City, 94 cases were disposed of in one court with a list of 44 cases awaiting trial in 2020. Also, in Belize City, a further 25 cases were concluded leaving a list of 108 cases traversed to January 2020. In the Northern Session 23 cases were disposed of and there remain 43 pending cases. In the Central District in Belmopan, the list stands at 91 pending cases; however, notwithstanding an epic trial lasting over a span of six months, 37 cases were disposed of. In the Southern Session, 41 cases were disposed of in Dangriga and 5 cases in Punta Gorda. The pending cases stand at 27 and 8 for Dangriga and Punta Gorda respectively.

As of January 15, 2020, Mde. Justice Moore will begin presiding in the Southern Session and Mr. Justice Cumberbatch will take her place in Belmopan.

REMAND POPULATION

The records of the Central Prison show a reduction of the number of persons on remand from the Supreme Court (predominantly for murder) to 109 as at December 31, 2019 in comparison to 182 as at December 31, 2018. A significant reduction indeed. However, there are 22 inmates who have been on remand for in excess of four (4) years. Inasmuch as this represents an improvement over the number of 60 in 2018, it is still 22 persons too many. It is the target of the Criminal Division that such lengthy remands will be further reduced in 2020.

RE-SENTENCING

In March 2018, the Caribbean Court of Justice ordered, in the Consolidated Appeals of Gregory August and Alwyn Gabb, that all inmates convicted for murder and serving a mandatory sentence of life imprisonment have their sentences vacated and be brought before the Supreme Court to be re-sentenced. The task was undertaken by the Chief Justice and the five Judges of the Criminal Division. To date, 25 of the inmates affected have been re-sentenced and there remain 7 persons awaiting re-sentencing. I wish to thank the Community Rehabilitation Department for assuming

the additional responsibility of providing Social Inquiry Reports and the Central Prison for its full co-operation in this exercise.

BAIL APPLICATIONS

Having regard to the inability of many inmates on remand, being unable to afford legal representation to apply for bail, the Supreme Court initiated a process to address this defacto denial of access to justice. Accordingly, the pro se/unrepresented Litigant on remand can now complete a form and swear to its contents in order to petition the Supreme Court for bail. Thus far, the process has met its purpose and it is being progressively refined to meet the requirements of the soon-to-be-operationalized Prison-to-Court video link.

MAXIMUM SENTENCE INDICATIONS

Rule 9.17 of the Criminal Procedure Rules 2016 makes provision for Rules to be issued in respect of sentence indication hearings. To explore this aspect of sentencing, the Judges of the Supreme Court attended a seminar on June 6 and 7, 2019 with the assistance of INL/CARSI under the auspices of the United States Embassy in Belize and the U.S.-based National Centre for States Courts. The workshop was facilitated by Hon. Mde. Justice Gillian Lucky from the Judiciary of Trinidad and Tobago and Hon. Judge Peggy Chiampas, Associate Judge of the Circuit Court of Cook County in the State of Illinois.

Arising from the discussion and sharing of experiences and best practices, a Practice Direction has been drafted and comments have been received from the Director of Public Prosecutions. In due course, it will be circulated to Attorneys practicing in the Criminal Division before sensitization sessions are conducted.

In brief, the Practice Direction will provide a process by which a person charged and awaiting trial who is desirous of pleading guilty can, through his or her Attorney or by himself/herself, seek the Court's indication as to the maximum sentence he or she will be given if he or she pleads guilty. This process adopts the principles enunciated in the case of R. v. Goodyear (2005) ENCA Crim. 888. It seeks to encourage early guilty pleas which would impact the number of trials. The process is entirely voluntary and is tailored to observe due process and provide safeguards against abuse.

Upon being operationalized, the Practice Direction will be applied along with published Sentencing Guidelines.

The Judiciary of Belize wishes to thank Mr. Keith Gilges, Mrs. Beverly Matner–Marcus and the INL/CARSI team for the tremendous assistance afforded to make the seminar a success.

PRISON-TO-COURT VIDEO LINK

On the 15th day of May 2019, a significant ceremony was held at the Central Prison, Kolbe Foundation at Hattieville in the Belize District. The occasion was the handing over of the building to be used as a prison courthouse and the equipment for the Prison Video Link System. The equipment is installed at the Central Prison as well as at the Supreme Court and the Magistrate’s Court. The building and equipment were generously funded by the Government of the United States of America through the Central America Regional Security Initiative (CARSI) to the tune of US \$387,000.00.

The building and prison video link system will enable bail applications, adjournments and other hearings (except trials) to be heard remotely by a link to the courtroom in Belize City and (hopefully in the future) to courtrooms throughout Belize. This will reduce transportation expenses and security risks to a considerable degree. Very shortly, the requisite Rules will be published having been already drafted and finalized.

A huge debt of gratitude is owed to the Government and People of the United States of America (applause). I trust that Mr. Keith Gilges will convey this to his principals.

STUDY VISITS

A. Visit to the Chiquibul Forest

On August 16 and 17, 2019, a group of 10 Magistrates and 2 Judges as well as the Chief Justice and the Chief Magistrate ventured to San Ignacio and onward to Las Cuevas Research Station in the Chiquibul Forest and to the Caracol. The trip was

made possible by the Friends of Conservation and Development and ably guided by its Executive Director, Mr. Rafael Manzanero, assisted by his team.

Those attending were exposed to the beauty of the Chiquibul National Park as well as the realities of environmental threats and challenges and of illegal gold panning, cattle ranching and wild-life trafficking. Evidence was seen of illegal logging and farming. The study visit was informative and has opened the door for a better understanding of the illegal activity in the Chiquibul Forest. A visit was also paid to the Caracol Archeological Site.

The Judges and Magistrate wish to thank Mr. Manzanero and the Park Manager, Mr. Derric Chan and the Forest Rangers for the very insightful presentations and the night walk in the jungle. Also, gratitude must be extended to the Special Patrol Unit of the Belize Police Department, the National Institute of Culture and History and the US Department of the Interior.

B. Visit of Judges to the National Forensic Science Service Laboratory

On November 14, 2019, the Chief Justice and seven Judges were conducted on a tour of the facilities at the National Forensic Science Service Laboratory at its Ladyville Headquarters. The Director, Mr. Gian Cho, and his staff were on hand to explain the processes of the various sections and to field questions from the Judges.

At the end of the exercise, the Judges and the NFSS personnel were left with a better appreciation of their respective roles and expectations. The tour was hailed to be a success on both sides. Expressions of gratitude are extended to Mr. Cho and his staff.

COMMISSIONERS OF THE SUPREME COURT

Three persons were sworn on April 11, 2019 as Commissioners of the Supreme Court. The new Commissioners are Mr. Paul Prescott Guerra – a Justice of the Peace and Security Expert; Mr. Paul Gilbert Garcia, Snr. – a Justice of the Peace, Security Operator and retired BDF Warrant Officer; and Mr. Jarette Germaine Twist – Records Manager of 15 years standing at the Central Prison. Having been lectured on their duties and obligations, they were sworn by the Chief Justice in the presence of family members.

CHILD DIVERSION PROGRAMME

On April 14, 2019, Magistrates who are required to sit in Family Court were sensitized on the pilot diversion programme being implemented by the Community Rehabilitation Department in three select locations, namely, Belize City, San Ignacio in the Cayo District and Dangriga in the Stann Creek District. The pilot is intended to inform a National Diversion Programme to fill a gap in respect of children in conflict with the law for minor offences consistent with treaty obligations under the Convention on the Rights of the Child. Its main components allow for diversion at two stages: (1) by the Police and (2) by the Court. The process is guided by draft protocols developed by a consultant in September 2017 under the guidance of the National Committee for Families and Children with assistance from UNICEF.

The objective is to reduce the number of children entering the criminal justice system or to curb repeat offences. In this way, the likelihood of children graduating to more serious offences would be reduced with an overall effect on crime at the front end.

JUDICIAL CONTACT - Norman Manley Law School

In March 2019, the Judiciary continued its practice of making judicial contact with students of Belizean descent at the Norman Manley Law School. Hon. Mde. Justice Williams visited Jamaica and attended at the Law School interacting with students. Her Ladyship also presided over moot trials involving Belizean students on scenarios based in Belize. This feature is expected to re-occur in 2020.

JUDICIAL ETHICS

Article 11 of the United Nations Convention Against Corruption (UNCAC) to which Belize is a signatory as of December 2016, requires each state Party to (a) take measures to strengthen integrity among members of the judiciary, and (b) take measures to prevent opportunities for corruption among members of the judiciary. It is recognized that the Judiciary is integral to combatting corruption and that in order to fulfil its role its members must be free of corruption.

In 2016, the United Nations Office on Drugs and Crime (UNODC) launched a global project to strengthen judicial integrity and to prevent corruption in the justice system.

The Global Judicial Integrity Network provides a platform to promote training and learning among judges on judicial integrity and anti-corruption. One of the main activities has been the development of Judicial Ethics training tools for both newly appointed and serving members of the judiciary.

Pursuant to the process, Hon. Mde. Justice Young received training as a trainer at UNODC in Vienna to deliver training in Judicial Ethics. On May 10 and 12, 2019, a workshop on Judicial Conduct and Ethics was held for Judges. This was followed on May 17 and 18, 2019 by a workshop of similar content for Magistrates.

Prior to workshops, most of the Judges and Magistrates embarked on an e-learning course and successfully completed it. Thus far, Belize has been recognized as the Judiciary with the most judicial officers completing the electronic e-learning course on judicial ethics based on the Bangalore Principles of Judicial Conduct.

ALTERNATIVE DISPUTE RESOLUTION

1. ARBITRATION

I am pleased to announce that the Rules for court-connected arbitration have been published in the Gazette and are in force. There exists, as a consequence, Part 74 of the Supreme Court (Civil Procedure) Rules 2005 devoted to arbitration.

Also, to be published as required by the new Part 74, is a roster of the trained arbitrators, both lawyers and non-lawyers.

I wish to thank the Solicitor General and Mr. Randall Shepherd and his team at the Legislative Drafting Section of the Attorney General's Ministry for facilitating the drafting process.

The vision as perceived by the National Mediation Committee is for Belize to evolve into a regional centre for arbitration in Central America.

2. MEDIATION

The Family Court in Belize City and Punta Gorda has been offering family mediation services as a regular part of its services to litigants. The Magistrate's Court continues to offer mediation as an option to the litigants in civil claims. Mediators in all courts are receiving a modest fee for their services. The mediation

process in the lower courts is developing satisfactorily and has been well received by court users. The by-product is that the Magistrates have been afforded additional court time to devote to other matters.

The National Mediation Committee comprised of stakeholders continues to provide valuable guidance to the Chief Justice in matters of alternative dispute resolution. Also, the Association of Dispute Resolution and Arbitration of Belize has given support to the work of the Committee and to the Chief Justice throughout the year.

Before leaving this subject, I wish to pay tribute to Hon. Mr. Justice Courtney Abel for having chaired and guided the Committee virtually from its inception and shepherded its development.

HUMAN TRAFFICKING INSTITUTE

The collaboration between the Human Trafficking Institute remains strong. The Institute renewed the internship of Ms. Sherise Francis for a further year. Her attachment has been extremely valuable and of considerable assistance to Hon. Mde. Justice Antoinette Moore, who has been designated as the Judge with expertise in human trafficking matters.

The Judiciary notes with satisfaction the upgrading of Belize to Tier 2 watch list ranking by the US Department of States Trafficking in Persons Report for 2018.

JUDICIAL RETREATS

In April and August 2019 weekend retreats were held in Placencia for Magistrates and Judges respectively. In the case of the Magistrates, seminar-style discussions were held on bail, sentencing and the procedures for preliminary inquiries among other subjects. In the case of the Judges, presentations were made on contempt of court, digital evidence as well as case studies on recent cases from the Caribbean Court of Justice.

GENERAL LEGAL COUNCIL

Throughout the year 2019, the General Legal Council met regularly conducting hearings in relation to complaints received. In the course of 2019, a total of 12 new complaints were received.

CAJO 2019

The high point of the Belize Judiciary's activities in 2019 was its hosting of the 6th Biennial Conference of the Caribbean Association of Judicial Officers between October 31 and November 2, 2019 under the theme "Judicial Integrity: The Pathway to Public Trust and Confidence.

This was preceded by a meeting of CARICOM Chief Justices and Heads of Judiciary on October 30, 2019. This meeting brought together eleven (11) Heads of Judiciary or their representatives. Both meetings were held at the Biltmore Hotel in Belize City.

The CAJO meeting recorded an attendance of 236 members which included Chief Justices, Justices of the Caribbean Court of Justice, Justices of Appeal, Judges, Masters, Magistrates, Registrars, Court Administrators and Alcaldes from Belize and Caribbean countries from the Bahamas in the North to Suriname in the South.

From feedback received, the delegates were appreciative of the arrangements and the exposure to Belize and its unique culture.

CONCLUSION

The year 2020 comes with challenges to maintain the strides made towards backlog reduction and to attract replacements for retiring Judges. The process has already been initiated and practitioners are urged to offer themselves for service.

I wish to thank the Registrar and the staff of the General Registry for their hard work in supporting the Judiciary Arm of the State.

On behalf of the Chief Magistrate, I take the liberty of equally expressing gratitude to the staff of the Magistracy Department throughout the Judicial Districts of Belize for their devotion to duty and supporting the work of the Magistrates.

I wish to thank my successive Secretaries, Ms. Araceli Guerrero and Mrs. Felicia Leslie, for their supporting work running an office with multiple tasks single handedly.

The arrangements for the opening were guided by Ms. Melissa Rowley, Assistant Registrar. We wish to thank her for her thoroughness.

The Church Service invoked the blessings of the Almighty and set the tone for a new year. We wish to thank the Rt. Rev. Philip Wright, Bishop of Belize and the Clergy in attendance for the dignified Ecumenical Service.

I wish to thank the Commissioner of Police for the impressive guard-of-honour under the command of Inspector Jones of the Special Patrol Unit.

Without further ado, I now declare the Legal Year of 2020 open.

Hon. Minister, you may now address the court and move the motion for the adjournment.