

COMPUTERISATION AND THE ADMINISTRATION OF JUSTICE

Consultant's report for Belize

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PART 1 — INTRODUCTION

Background

The Commonwealth Secretariat has been concerned for many years to assist in maintaining the rule of law by making laws accessible and generally assisting in the delivery of justice.

A workshop was convened in Barbados in August 1997 to explore the possibility of countries making use of the Bermuda legislative drafting software or other systems for law revision. It emerged from this workshop that the primary need was to have an independent consultant visit the various countries of the region to report upon their information technology requirements. Many reported that they were inundated with advice about computer and other systems from suppliers, but that failure and wastage were common results and there was no coherent overall plan.

The Commonwealth decided to appoint a consultant to report for the countries upon these matters, and to convene another workshop, in March 1998, to settle the terms of the proposed consultant's report for them. At this workshop, the participating member countries agreed that a consultant should visit as many of the countries as possible to consult with all relevant agencies and conduct a needs assessment and report.

This is the draft report on Belize, conducted by the Commonwealth Secretariat's consultant, Neil Adsett, in late July 1998.

The report was compiled in a single week and could perhaps be seen best as a report in progress. Any errors reported to Neil Adsett will be corrected.

Object of report

The plan in compiling this report was to -

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- consult with as many of the key Government lawyers and officers as possible and to record their views;
- to note the present position, the aspirations of the lawyers, the problems, the practicalities;
- Assess the short and long term requirements for improving the operation of law ministries through the use of current I.T. and the introduction of further I.T. with specific reference to its application in the field of legislative drafting, law revision and the administration of justice generally;
- Provide advice and guidance on short term use of existing I.T.;
- Produce a plan relating to I.T. and the administration of justice, and assist to identify specific systems to be put into place for each member country;
- Prepare outlines for specific additional assistance requested by member countries, which might be funded by CFTC or other aid agencies; and
- Follow up on the report to foster change.

PART 2 —THE DEPARTMENTS

OFFICE OF THE LAW REVISION COMMISSION

The Laws of Belize were last revised in 1990, by means of the looseleaf updating of the 1980 revised edition. The revised edition consists of 6 volumes of principal legislation, and 5 volumes of bound subsidiary legislation, to 1991.

Sir George Brown (ph./fax 72939), the retired former Chief Justice, has been appointed as the Law Revision Commissioner and has commenced work on the law revision. His plan is to complete an entirely new revised edition of the principal laws of Belize, probably in bound volumes and including footnotes referring to relevant court decisions. The subsidiary legislation may also be revised as a separate exercise.

I discussed the project and indicated the options now available for such a task. I also gave advice on various practical matters relating to the law revision, - including –

- Consider the advantages of using a looseleaf binding format and interim booklets of revised laws
- Consider the possibility of including subsidiary legislation with the principal Act
- Use of working Cap. numbers to avoid confusion and to allow for the inclusion of new enactments
- Consider the advantages of establishing a high powered law revision committee to guide the use of extended law reform powers and to secure the passage of associated legislation through the Cabinet and Parliament.

In addition I was especially asked to advise on the computers and other hardware and software needed to enable the law revision to be conducted in-house.

In previous law revisions, the Law Revision Commissioner would compile a written manuscript of the revised law, and this would be sent to overseas printers for typesetting and printing.

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Since the availability of desk top publishing technology, many countries are doing all of the typesetting themselves and are producing their own camera ready copy. This has the advantage of saving money and time, and of developing the expertise and capacity within the country of keeping the laws up to date.

In my view, the process of in-house production needs to be properly staffed, resourced and planned otherwise it will not work and be a huge waste of time and money for the law revision project and the government.

I undertook to provide the Law Revision Commissioner with a Schedule of the equipment and software needed, and to have a full costing included so that a comprehensive submission could be made to the Government's financial controllers. I shall submit this when I have obtained price quotations – within one month.

The law reform office has one secretary and one junior office assistant. Neither would be capable of making any significant progress with production of the revised edition. The Law Revision Commissioner and the Solicitor General are aware of the need to recruit a suitable Desktop Publishing officer if the project is to proceed in this manner. I indicated that I would be able to organize and perhaps supervise the training of this recruit and if need be could help in preparing a request to CFTC for assistance in this training.

There are two stages in the primary production process –

- Capture of existing raw data – I recommend that this work be outsourced. On the basis of the laws I saw, and the proposed 326 chapters (up from 270 in the old revised edition) I estimate that the cost of raw data capture would be B\$40,000, using a professional overseas data capture agency in a reconciled double entry system. This method would be quick and accurate and form the basis of the revised edition. In my experience, even using skilled local operators and the best scanning and Optical Character Reading software available, the task is beyond local capacity – it would take so long and need such correction, that the law revision project would most likely falter.
- Incorporating changes directed by the Law Revision Commissioner – this should be done at the project office using local staff and the equipment and software specified. It will also be necessary both to train the existing staff in the use of the software used, and also to hire an experienced desk top publishing expert.

If the law revision project proceeds as thus recommended, and if it remains tightly controlled by the Law Revision Commissioner and focused upon completion within the planned time frame, then it has every chance of success.

I would welcome the opportunity, as part of the commonwealth secretariat project that is funding this report, to review progress in the law revision project in 6 months time, to ensure that the project is well underway and to offer further assistance then if need be.

THE COURTS

Background

In Belize there is a Magistrates Court in each of 6 divisions, with the Chief Magistrate and senior Magistrate both legally qualified and sitting in Belize City, and the other courts presided over by lay Magistrates.

A Quick Trial court was also set up to enable cases involving foreigners who had to leave (especially thefts against them) being dealt with almost immediately. The Chief

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Magistrate now usually deals with these matters and to ensure that the accused get a fair trial, now he merely takes the evidence of the foreigners so that they can leave as planned (with the property in question). Magistrates have civil jurisdiction up to B\$5,000 (B\$2 equals US\$1).

The Supreme Court consists of a Chief Justice and 5 other Judges (including a Family Court Judge), all sitting in Belize City.

There is a Court of Appeal with one resident local Judge and 3 visiting Judges (from the Caribbean region) who convene the court several times each year to hear appeals.

There is a right to appeal also to the Privy Council.

Supreme Court

I saw the acting Chief Justice and he was supportive of any moves to computerise the Supreme Court registry. None of the judges use computers regularly. The Chief Justice has a secretary who uses a computer as a word processor, and the court reporters also use word processors and give secretarial assistance to the other judges.

I did not perceive any need or use for computers amongst the judges.

It was previously reported to me that there was a 5 year backlog in getting civil cases tried, and like in St. Lucia a USA aid donor was interested in providing case management software and computers to rectify this problem. Recently however an acting Judge (Judge Howard Nathan) spent 8 weeks working intensively to reduce the unresolved civil cases, and it now seems that there is no longer any substantial list of cases genuinely awaiting trial. Judge Nathan brought this about by calling over all the civil cases and resolutely requiring them to be abandoned, settled or expeditiously tried before him. That way, more than 500 cases were dealt with. It is to be hoped that the 6 Supreme Court Judges can now keep the case list up to date.

There is no delay in having criminal cases tried in the Supreme Court, and this may be a further example of the common fact that most Judges prefer to concentrate on criminal work in preference to civil cases whenever possible.

Magistrates Court

The Magistrates Court has a relatively new computer and printer, and other computer equipment, including a server, has been donated by the USA Embassy on the basis that it will be used to establish a network including the Magistrates Court at Cozumel.

The operating computer at the Magistrates Court is being loaded with details of court cases as soon as the cases come to the registry. Thus a manual system (large books) and the computer system are operating side by side. As the staff become more familiar with the computer and database software and the police and court become more confident of it, the extended use of this computer system will evolve until the system can become primarily computer based.

Now the Police and the Magistrates go first to the computer records when they need information. A copy of a useful report generated by the computer is attached to this report as Appendix 3.

Court reports

Court of Appeal decisions and significant Supreme Court decisions are published in the Gazette, but there is no attempt to consolidate, index or organise them. There was one only edition of the Belize Law Reports, in 1994, and another volume may be ready for

printing. In the supreme Court Registry there is a single chronological bound set made each year of reasoned decisions and there is probably a good set of loose decisions at the Supreme Court library.

There is a need to organize these law reports, in a common law based jurisdiction where precedents should be a basis of the law. It would not be a major job to get the reports placed in a form capable of publication. There are just 50 private and government legal practitioners in the country, and probably only 100 copies of each volume of the law reports would be needed. As an interim measure, a case index would be a valuable tool (see extract from such a case Index at Appendix 4 to this report) and would only involve an experienced lawyer spending 3 months on the project, which could be published cheaply by using photocopiers).

I have not seen any Belize law reports noted in the West Indies Law Reports series. The Belize Index of Laws, formerly published by the University of the West Indies (and still produced annually for most Caribbean states) has apparently been discontinued because all the statutes were not provided to the compilers regularly. This situation should be rectified – either now by liaising with Ms. Valma Newton at the Law Library and sending across all the missing laws, or after the publication of the planned new revised edition which will include an up to date index.

The Solicitor General's office keeps its own Index but it has not been published since 1996 due to a lack of funds for the printing.

Supreme Court Registry

In common with most former British Colonies, the system in Belize was that one Registrar General was in charge of the registry of documents relating to the Supreme Court (and courts of appeal) and also to land, births, deaths and marriages, companies, commercial acts, trade marks, etc.

Now some of these registry functions have been dispersed –

- Perhaps half of the land in Belize is now registered under a Torrens system at a separate registry,
- International companies are registered elsewhere,
- Births Deaths and Marriages are still under the control of the Registrar General of the Supreme Court but at a separate registry.

All other documents are still registered at the Supreme Court in grossly overcrowded and under-resourced circumstances.

Registration numbers for 1997 were (roughly)

Supreme court civil cases	550
Supreme Court inferior civil cases (claim between \$5000 and \$15000)	125
Divorce cases	120
Companies	<i>(figures to be provided)</i>
Births	“
Deaths ¹	“
Marriages	“

¹ Many deaths go unregistered because the onus now is upon the family to take the medical death certificate in to the Supreme Court. This creates a myriad of problems mediately – estate matters, election rolls etc. It seems to me that the regulations could easily be changed to require the medical certificate (already completed in triplicate) to be sent direct to the Supreme Court by the medical officer or hospital.

Computers are not in use at all in the registry and this is a situation that was reported to me as a possible area where computers could assist in the administration of Justice. Some steps have already been taken whereby Ms Lucas has a computer running database software developed locally (by Charles Ewens; DOS based Clipper program) and into which she has loaded a number of current case details. 6 computers have been given (by the Pan American Health Organization) for registry use but they are in storage and getting out of date.

The Acting Registrar General of the Supreme Court, Mr Usher, is active in trying to improve the situation and has proposed that funds be located to enable the computerisation of the registry. His approach (guided by Mr Ewens) is to introduce the computers into the system slowly, and not giving up the manual journals until the computer system is running reliably in parallel.

I agree with this approach if computers are to be introduced at all in the near future, but I believe that there is a larger need to rationalise the registry system, location, functions and responsibilities and staffing before any further steps towards computerisation are taken.

There is not so many actual cases and documents registered that a manual system should not easily be sufficient to handle them. Likewise the reports that the Registrar needs could easily be extracted now manually by a clerk (eg cases set down for trial but not heard) by looking at the relevant book.

I am afraid that a reliance upon computers to solve a problem that is essentially people caused and perpetuated, will only introduce another layer of delay, error and excuse.

Births, Deaths and Marriages

This sub-registry is now running about 6 new computers with data base software developed locally and with Organisation of American States assistance. Some of the recent data is now being entered in the system and the plan is to gradually build up this database, use it informally within the office to allow all staff to become familiar with the computer system and then at some time in the future, make a major effort to have all data inserted and then to use the computer records as the main database for record keeping and retrieval. It will be necessary to keep these important records in journals for perhaps 3 years after this as a parallel system until the computer system is reliable and familiar.

SOLICITOR GENERAL'S OFFICE

Background

In Belize, the Attorney General (who under the Constitution must be a lawyer) is also Minister for Foreign Affairs and holds 4 portfolios altogether. He is based at Foreign Affairs and doesn't have a lot to do with the day to day running of the Judicial Department. The Solicitor General is de facto head of the department.

There is the Solicitor General, Mr Gandhi, 3 Crown Counsel and a legislative draftsman, plus support staff. The office is in the Capital, Belmopan, which is about 50 miles inland from Belize City where the Courts and registries are situated.

In the Solicitor General's Office there is one fairly modern 486 computer with a light duty bubble jet printer, plus a very old 286 computer and dot matrix printer, both falling to bits slowly and without enough memory to run Windows. The Legislative Draftsman's secretary uses this machine.

The Crown Counsel get by with a typewriter. I am told that they don't need to prepare many documents, but they would benefit greatly from having a computer so that they could amend and store their draft opinions and pleadings, and also keep basic forms of court pleadings to fill in as needed.

A new computer (basic Pentium with 16 mb of Ram and commensurate hard drive) and a heavy duty printer (Hewlett Packard basic 5 series) is needed for the legislative drafting function. As well as churning out the work (about 40 Acts and 200 Statutory Instruments on average), it would enable drafts to be stored on the hard drive, allow internet access to precedents, and enable laws to be delivered to the Government Printer formatted and in a directly compatible format.

This Office does not need any sort of network at this stage, but an intranet using the internet would be ideal in the future, to overcome the difficulties of the Solicitor General's Office being 50 miles away from other organs of the Ministry.

GOVERNMENT PRINTER

I went to see the Government Printer in Belmopan to assess whether that facility could be considered to print the planned new revised edition.

The Printer is well housed in a big building with room to expand – one advantage of the move to the new capital in the early 1980's, as most government printers have to continue in original printeries that by now are way too small.

They are innovative, and are cutting and selling their own CD's of the Customs law.

One inefficiency that could be looked at is the continued practice of selling all Acts for 60 cents regardless of size, and that the Gazette subscription remains at B\$24 a year and for this the subscriber gets all laws made in the year. Neither of these sums goes close to covering the cost of the paper used and the Government is therefore suffering a great loss of revenue that is no doubt holding the government printer back.

I suggest that this situation be re-looked at by the Government – of course if that is the deliberate policy, then so be it, but I suspect that the question needs to be raised and considered.

Another inefficiency is that the legislative draftsman prepares legislation and is able to supply the laws already typeset on disc, but usually the printer re-typesets the laws again, does not send proofs to the draftsman, and accordingly errors are introduced that need correction. There is an understandable insistence by the Clerk to Parliament that the hard copy actually introduced into the Parliament should be the document that is then printed and published in the Gazette as a Bill, and this is acknowledged by the drafter and the printer, but there is no reason why the computer disc cannot be used as a tool for the Government Printer to ensure that the printed Bill is exactly the same as the original introduced into the Parliament.

This problem should, I believe, be sorted out by a meeting of all officials concerned.

I believe that the Government Printer should be considered when a decision is made as to who is to print the new revised edition of the laws of Belize. We spoke about this and the Government Printer is going to look at at the practicalities and at any new machinery or facilities that may be needed.

DIRECTOR OF PUBLIC PROSECUTIONS

Background

I met with the Director of Public Prosecutions, Mr. Lucas. There are 4 other lawyers in the office, plus a typist and an office assistant.

Responsibilities/functions

The DPP is a constitutional office and responsible for all prosecutions. In some difficult cases the DPP will be consulted by the police early, but usually the DPP does not see a prosecution file until after the committal or, for cases triable only on indictment, at the pre-committal stage..

The office is independent, but the Attorney General handles administrative matters that arise and the Solicitor General basically has the role of permanent secretary.

Information systems

There is no indexed record of cases or comparative sentences or the like, and the usual problem with finding the law or relevant cases applies. The typist uses a single computer purely as a word processor; the office is naturally geared more toward appearing in court.

Problems

Then Office needs access to authorities and would like internet access to get at the foreign databases to keep pace with the private lawyers, some of whom are now able to do this.

I recommend that Internet access for research should be established.

PART 3 - SUMMARY

EXECUTIVE SUMMARY

General

My visit to Belize was brought forward at the request of the Belize delegate and proved to be timely and appreciated especially as it related to the Belize law revision project. A Law Revision Commissioner had been appointed and several key preliminary decisions needed to be raised and discussed to ensure that the project proceeded happily. It is a fact that many (perhaps most) law revision projects fail to proceed due to lack of careful planning and objective setting, so early expert external advice, together with some follow up and guidance, should be of great benefit.

Generally I find a low awareness of computers, but a general understanding that they do need to be introduced to make the system function more efficiently and and with greater job satisfaction.

Most, if not all, the people I spoke to realise this and would welcome a change. Most are too busy forcing the system to work to be able to step back and design or implement such a change. The early steps towards computerisation (registry general, civil status registry, Magistrates Court) are proceeding slowly and sensibly so that before they become the main record tool, the system should be familiar and reliable.

RECOMMENDATIONS

1. I have noted briefly against each Department the basic recommendations.
2. I believe that complete reliance in the principal registries on a new computer system is wrong and could possibly create more problems, if not chaos.

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3. Training is necessary, both for professional staff and support staff. If the training is carried out across the entire justice system, the trainers would then be able to train operators in batches across the Ministry, depending more on function than office proximity.
4. The law revision project will certainly uncover many problems with the existing law, and will generate many proposals to rationalise and augment the laws. This can best be managed by a high powered committee set up by Cabinet and recommending to Cabinet and the legislature the changes that are desirable. The composition could perhaps include the Attorney General, the Solicitor General, a senior representative of the judiciary and of the Magistracy, the Prime Minister or high cabinet Minister, the Law Revision Commissioner, a representative of the Bar Council.
This committee could evolve into a permanent Law Reform Agency when the law revision project concludes.
5. The law revision itself would establish, apart from the new law books, a database of the law which could then be maintained, made available as books, booklets, CD's, and on the internet (at a price to external users) and enhanced over the years, by the inclusion of annotations and related material to make the law more user friendly and relevant - as with guidelines and directions that would perhaps not be part of the actual law, but would assist in making the law practical and alive.
6. The courts are deciding matters every day, and these decisions should be available to lawyers and others to flesh out the statute law and common law. Accordingly there needs to be established a database of cases, organized by subject to allow them to be a guide to the likely interpretation of the law. This would mean that many cases could be avoided, if potential litigators or defendants (and the court) know of relevant decisions which would most likely be followed again by the court.
This database of cases needs to be planned for, and a qualified person appointed with the specific task of going through the court decisions and organising them and including them in Digest/Index form and with the full text of the reports available. This job is not massive; 18 months work properly organized and supervised would suffice to complete the project. Budget restrictions (of Government and users) would dictate how the product could be presented - in Index form perhaps, with the full text available in electronic form (CD or Internet) that is computer searchable and cheap to produce.
7. The Internet needs to be made use of throughout the justice administration system - as a research tool, lawyers can access the main overseas databases of cases and statute law. For example the drafter who needs to produce a certain law could search for precedents from other countries, pull text down onto the drafter's computer, adapt it to Belize's circumstances, and present it as a draft - quickly, with no need to retype, and having the advantage that it is a law with proven workability.
In addition the databases of laws and cases established in Belize can be made available on the internet very effectively and updated quickly and cheaply.
8. To implement these plans, I recommend at first a committee across the branches of the justice department to make a plan, agree upon it, set a timetable and appoint one co-ordinator whose responsibility is to implement the changes according to plan. The entire process should be overseen by this committee, meeting perhaps 3 times a year. I do not see any need for urgent action. Mr Roy Gordon is now finding himself in this

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co-ordinator role and his friendly manner impressed me as much as did his willingness to call in outside help when a problem was beyond him.

9. In the wider field, I spoke briefly with the Permanent secretary of the Public Service Department, Ms. Marion McNab. I conjectured that it may be about time for Belize to set up a computer services division, to oversee the introduction of computers throughout the civil service, to ensure compatibility and to provide training, maintenance and support generally.

To be provided by consultant –

Follow up visit in 6 months would be useful, especially for the law revision programme
To the Law Revision Commissioner, a schedule of equipment and software needed for law revision work

Provide information on UWI legal index to see if Belize can get back on the programme.

CONCLUSION

I trust that this report is of value to Belize. Please do not hesitate to contact me ([email: nadsett@yahoo.com](mailto:nadsett@yahoo.com)) or the Constitutional and Legal Division of the Commonwealth Secretariat concerning this report or matters arising from it.

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26 July 1998

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