

**4<sup>TH</sup> OCTOBER 2010**

**SPEECH BY HON. JUSTICE AWICH ON APPOINTMENT  
AS ACTING CHIEF JUSTICE OF BELIZE**

Your Excellency, The Governor-General,

Hon. Justices of the Court of Appeal and the Supreme Court  
of Belize

The Attorney General

The Solicitor General

Madam Registrar

Worship Chief Magistrate

Madam Director of Family Court

Ladies and Gentlemen:

1. Your Excellency the Governor-General, I would like to thank you for the confidence you have shown in me, by appointing me Acting Chief Justice, and thereby entrusting me with the important functions of the Chief Justice of Belize until further notice. It is a great privilege and honour. I renew my commitment to uphold the Constitution and other laws of Belize; and I pledge to do my best in carrying out those duties.
  
2. I also thank the Hon. Prime Minister for recommending me to Your Excellency, and I thank the Hon. Leader of the Opposition for his part in the consultation required by the Constitution even for an acting appointment.

In such an important matter the Hon. Attorney General and his First Officer, the learned Solicitor General, would have offered any relevant professional information about the candidate, to the Prime Minister.

I think the Attorney General and the Solicitor General for any professional part. I also thank my colleagues, Justices of the Court of Appeal and the Supreme Court, who are here today, the Registrar and the staff in the Judiciary. Last but not least, I thank my wife and children for their unfailing support.

3. Your Excellency, everyone knows that the cause for you to designate one of the Justices, myself, to carry out the functions of the Chief Justice arose from the retirement of former Chief Justice Abdulai Conteh. During his tenure in office, Chief Justice Conteh was blessed to have had a compliment of Justices of very high integrity, and who respected the office of Chief Justice even when at times a Justice or all disagreed with the Chief Justice. Naturally I request of my brother and sister Justices their cooperation.

4. Generally each one of the Justices in the Court of Appeal and the Supreme Court has over the years shown considerate patience and maturity when called for. That accounts for the present respect the Judiciary enjoys. Your Excellency, you have judges and magistrates of high integrity, and are loyal to Belize. I have confidence in them.

5. Permit me Sir, to mention on this occasion, the business that courts concern themselves with. It is the business of courts to apply the current laws of Belize in deciding whether or not an accused is guilty of an offence; and if guilty, the appropriate punishment. It is also the business of courts to decide rights and duties in commercial, family, social, property and constitutional disputes.

6. Sir, it is not the function and business of courts to judge the political, economic and social policies of the Government of the day; and it is not the business of courts to judge the political, economic and social policies of the Official Opposition and other political parties or any interest group, that is the business of the citizens, the general population. Further, it is not the business of courts to intervene in debates of the National Assembly. It is also not the business of courts to judge religious faith. However, courts will pronounce on constitutional questions when called upon. What I have outlined is the principle of law regarding functions of courts. It is part of the principle of separation of powers in a summary.

7. Your Excellency, the question of law and order is obviously the business of the Courts, the Government, the National Assembly, the Official Opposition, the

Police, the Director of Public Prosecutions, Chamber of Commerce, Trade Unions, Religious Leaders and the general population.

8. Today in Belize the top public concern on the mind of everybody is crimes of violence, especially homicide – commonly referred to as murder; and robbery. I have heard some people say that the Judiciary is failing to deal with the current state of crimes of violence. I think what they mean is that the present entire process of criminal justice, that is, the process: of investigating crime and making arrest, of presenting the evidence to court and persuading the jury to convict an accused, of imposing an appropriate punishment on the guilty, and of imprisonment and rehabilitation, is no longer suitable for dealing with the current state of crimes of violence in Belize. I agree.

9. Most of the rules in the criminal justice process that we continue to apply today were suited for the circumstances in the past when crimes of violence were not prevalent and witnesses were more honest and forthcoming. Guns and drugs for sale were not commodities for wealth. Today better and better investigation of crime; and better and better presentation of evidence to court are required. The jury, for their part today, must apply their ordinary experiences to present day conducts and facts. Courts must impose punishments that meet the state of crimes of violence today and the facts about the particular accused of today. It is no justice today to apply the general level of punishments of twenty years ago; the state of crimes of violence today is not the same as the state of crimes of violence twenty years ago.

10. Notwithstanding those strong words, let me assure Your Excellency that, despite escalation in crimes of violence, we in the courts will adhere to the constitutional principle that a person, *“is presumed to be innocent until he is proved or has pleaded guilty”*. We shall continue to ensure that every accused has a fair trial in the first place. But we must, given the prevailing state of crimes of violence, now debate whether the current level of punishments is still just to the victims and the public.
  
11. The guiding principle is that, punishment must suit the crime and the guilty person. Each judge and magistrate has a duty to decide the correct punishment today for a crime of violence that has come to his or her court. In his or her decision he or she must be guided by a fair balancing of the interests of the victim, the public and



the guilty person. The principle remains the same, the general circumstances have changed.

12. Personally, I shall pose the question to judges and magistrates, whether it is not time courts heard evidence from victims of crimes of violence, about how the crimes have affected their lives. It may be the time to introduce victim impact statement as evidence at the stage when courts consider appropriate sentence – punishment. Can Belize courts today still justly exclude evidence from the mother, father, siblings, wife and children of the deceased from its consideration of the appropriate punishment for murder or manslaughter?

13. For operational purposes, I shall pose the question, whether the age limit of sixty years for serving as a juror may not be raised; and some exempted persons may not be included in the pool from which a panel of jurors

is drawn. The pool seems too small in all districts. I shall further, pose the question whether the number of jurors in a trial may not be reduced to eight, and an alternate juror may not be included.

14. There may be better suggestions than those I have made and there may be many to be made. That is the reason to have discussion. Certainly we in the Judiciary will discuss suggestions.

15. Your Excellency, I shall conclude by acknowledging the efforts of those who have volunteered to help in fighting crime. My thanks.

Thank you.

**SAM LUNGOLE-AWICH  
JUSTICE  
SUPREME COURT OF BELIZE**

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BELMOPAN, BELIZE**