

## **BELIZE: SECURITY THREATS AT HOME AND ABROAD**

**September Celebrations Theme: Belize Confronting Challenges! Celebrating Triumphs Renewing Our Resolve!**

### **"SHOULD WE GO TO THE ICJ?"**

**Presentation by: Paco Smith; Chairman – Belize Progressive Party (BPP)**

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**UB Jaguar Auditorium**

**Belmopan Central Campus**

With the requisite pleasantries already established, I bid everyone...good morning.

Special acknowledgement to the organisers of this much needed forum and particularly to the University of Belize's History Department for its contribution, as it demonstrates the salience of the national university's motto, "Education Empowers A Nation".

Amid the surplus of governance-related challenges confronting Belize, many of which I regrettably say are self-induced, in keeping with the theme of this forum, I shall shed light on some of the reasons as to why, in all consciousness, if we as a nation earnestly endeavour to embody, imbue and enact the progressive premise of this year's September Celebrations, it is in the collective best interest of Belizeans, worldwide, to determine that we MUST NOT go to the ICJ, under the current parameters.

I shall share with you, the rationale of this position, as it relates to: Guatemala's unfounded claim to Belize's sovereign territory, with respect to the once, much vaunted Special Agreement aka "Compromis", that was signed between Belize and Guatemala, under the aegis of the Organisation of American States (OAS) in 2008, as well as the ever-evolving dynamic that has characterised the said agreement, over the past nine (9) years.

**In so doing, I will provide in brief: (1) an historical overview of the issue at hand, (2) a critique of the GOB's approach to the matter, (3) an analysis of the implications and effects of said approach, (4) an explanation as to why going to the ICJ is not prudent, (5) a prescription for a viable alternative; and 6) a wrap-up.**

We live in a globalised world and I believe this notion need not be questioned, as its effects on Belize are felt in a variety of ways. This is evidenced in the rudiments of this existential issue, Guatemala's unfounded claim to sovereign Belizean territory. **The Boundary Convention of 1859** was signed by the Governments of the United Kingdom and the Republic of Guatemala. **What is the significance of that document?** Simply put, it outlined and detailed our nation's borders, with respect to our covetous neighbour to the south and west. This is buttressed by the fact that beginning in 1860 works commenced by engineers and surveyors representing both nations toward codifying that goal and stone pyramids to mark the South/West corner of our frontier, as well as the westernmost point were erected.

Guatemala posited that Britain did not fulfill its obligation under Article 7 of the 1859 Convention and deemed it null and void. Naturally, Britain held a different view, given that in 1863 an offer of "compensation" was made, yet at that time Guatemala refused to consider it, due to its war with El Salvador. Hence the stalemate concerning interpretation of the Convention and its validity, thus the emergence of **the Anglo-Guatemalan Territorial Dispute.**

**After many years of discussions and subsequent breakdowns, throughout the period 1866 to 2008, spanning the era of British control of this territory, leading to Belize gaining independence (with its borders in-tact...I might add), the principles decided to sign the aforementioned Special Agreement as it was expressed "...to bring a final settlement**

**to the claim".** That statement, in and of itself is a fallacy, particularly given Guatemala's well-documented tactic of reneging on agreements to which they have signed.

The Compromis as far as Belize's interest is concerned, is less-than-appropriate for it fundamentally places us between the proverbial "rock and a hard place". **Amid years of negotiations, Belize is currently in a most untenable situation, because for the first time on record, inexplicably, land has been placed on the table, as a form of compensation to Guatemala.** This is significant, because the prospect of placing Belize's geographic reality at the jurisprudence of the Justices at the ICJ, without any form of recourse such as an appeal, is both foreboding and daunting, principally as it relates to the current international political economy. To buttress my point, let us look at the proposed wording of the question that was to have been put to the people of both nations via simultaneous referenda. Note I said **"was to have been"**, for the initial constructs outlined in the Special Agreement have changed considerably, due to demands by the Guatemalans, with little to no resistance being put forth by our Belizean representatives. As for the question, it reads as follows:

***"Do you agree that any legal claim of Guatemala against Belize relating to land and insular territories and to any maritime areas pertaining to these territories should be submitted to the International Court of Justice for final settlement and that it determine finally the boundaries of the respective territories and areas of the Parties?"***

I find the wording, fundamentally lacking, in that it is noticeably ambiguous and therefore, places Belize at a distinct disadvantage, as it seemingly provides an avenue, for Guatemala's unfounded claim to be legitimised, as a result of a "yes" vote. Certainly, there are those who view it differently, but **Belizeans must bear in mind that the devil always lies in the details.**

On a more, fundamental level, which is most apropos given this time of year; if one accepts that Belize obtained its independence, via the UN, **with its borders in-tact**, there is no reason to seek supplementary validation from the ICJ. Further, logic dictates that one must never enter into a one-sided agreement in which you are the only one, who stands to lose something tangible. **In other words, Belize is vulnerable whereas in the event of an unfavourable decision at the ICJ, we will lose territory.**

In contrast, a decision against Guatemala only results in their losing an unfounded claim. **Hence the all-too-real element of litigation risk, which those who support going to the ICJ, purposefully downplay in a grossly irresponsible fashion.** This must be given serious consideration, for essentially, **with the existent parameters of the Special Agreement, frankly, the inherent risks of such litigation are far too ominous for Belize.** **In that vein, Belizeans should ask, prior to the referendum, "What precisely is Guatemala claiming? We know they covet our territory, but to what extent?"** Even our diplomats cannot provide a definitive answer because they, themselves, are uncertain. Therein lies yet another reason as to why voting to take the matter to the ICJ, under such conditions, is inadvisable. **After all, why would one willingly agree to subject that which is already in their possession, for deliberation, when the other side has yet to inform as to what exactly they are claiming?** Beyond the legal machinations of both sides, common sense among our people must prevail.

## (2) GOB's "4A Policy"

That which I mentioned is testimony to the lack of effective due diligence that was expended, concerning this matter of national importance, of which successive administrations are culpable. **The signing of the Compromis, with such constraints, essentially failed at securing the best possible arrangement for Belize. What Belize has witnessed since 2008 is an approach steeped in: APPEASEMENT, ACQUIESCENCE, ACCOMMODATION and ADHERENCE, to the demands of the Guatemalans!** Since 2008, there is a chronology of Guatemalan demands for changes to the Compromis which have essentially been accommodated by those who represent us. As a rule of thumb, anything Guatemala puts forth on this matter, is part of a strategy to bolster their position. **Translation, Guatemalan demands do not benefit Belize's cause!** A straightforward example, is the fact the Special Agreement originally

called for the referendum to be held simultaneously, in both countries. Yet, on the behest of the Guatemalans, this is no longer the case. This is but one occasion in which Guatemala demanded changes to the original agreement and Belize's representatives have afforded them virtual carte blanche to have their way. That my friends, is not the exercise of effective diplomacy and it is for this reason, I refer to the GOB's lackluster and ineffective approach involving the Guatemalans as its "4A Policy". Albeit extremely difficult to believe, especially given the continued erosion of Belize's position since the signing of the Compromis, there are those who beg to differ. Therefore, allow me to place matters in context. **On 21<sup>st</sup> September 1981, Belize had a BORDER, full stop. Fast forward to 2017 and our representatives now speak of an "adjacency zone". Let's be honest, if that is not a digression, what is?**

### (3) Increased Guatemalan Aggression

The manifestation of the aforesaid "4A Policy" can be seen in the increased aggression by the Guatemalan military. Following the signing of the Compromis, unfortunately with the support of the GOB, the dynamics in Belize's outlying areas were drastically changed by our opportunistic neighbor. Case in point, the Sarstoon River. Since the signing of the Convention in 1859, it has been acknowledged and adhered to by both nations that the middle channel of the river marks the border between the two countries, with Sarstoon Island lying within Belize's domain. At this juncture, I must give due respect to SATIM and its leadership for first bringing attention to these challenges, as well as the Belize Territorial Volunteers (BTV), for had it not been for their proactive work, the majority of Belizeans would have been none the wiser as to the aggressive impinging by the Guatemalans, that persists in the southern and westernmost regions of the nation.

I speak from personal experience of being harassed by Guatemalan military, while on excursion with the BTV, in Belizean waters, en-route to Sarstoon Island. On several occasions, I was ordered, by the Guatemalan military, to leave the area and once was actually chased by a Guatemalan gunboat! **Mind you, this occurred well within Belizean territorial waters and instead of providing support, the response from our government representatives amounted to an attempt at chastising us for, and I quote, "provoking the Guatemalans".** This is yet again, another example of the ineffective and detrimental results of the existing "4A Policy" and the list goes on. Let us not forget that increased, Guatemalan aggression is not limited solely to the Sarstoon River. On a daily basis our natural resources are being illegally and unsustainably extracted, with our fauna being poached and our flora degraded and exploited, by the Guatemalans. Yet those in positions of influence in Belize, persist in promoting the delusion that the Guatemalans are our friends, in this regard. **I trust we have not forgotten the tragic murder of Tourism Special Constable Danny Connorque, well within Belize's territory, at Caracol.** There are those who choose innuendo in the face of reality and claim they are uncertain as to the national origin of his murderers. Unfortunately, that does not come as a surprise for it remains consistent with the "4A Policy" of: APPEASEMENT, ACQUIESCENCE, ACCOMMODATION and ADHERENCE.

### (4) Further Buttressing as to Why Going to the ICJ is Not Prudent

Indeed we have a Constitution, which is the supreme (man-made) law of the land, yet given the dearth of good governance practises and principles demonstrated by successive administrations, corruption is rampant. **It exists and evolves along six stages including: PRIDE, ARROGANCE, GREED, INSENSITIVITY, DOMINANCE and ultimately TYRANNY.** Much to my chagrin, given the current state of affairs, starting with those at the top, our beloved nation is in the disgraceful state of TYRANNY. For those who disagree, I can only assume they are living in some manner of alternative reality. One need not look any further than the ever-increasing scandals involving: immigration, land, the misuse of government resources & equipment and overall graft to buttress my assertion. Some wish not to acknowledge the significance of such malfeasance, yet if one is to be honest, it should be clear that in an environment where corrupt actions are not dealt with accordingly, inevitably such failure facilitates its continuance. That being

said, its relevance to the topic at hand is that such an environment is not conducive to engendering trust in those vested with the responsibility of ensuring Belize's well-being is first and foremost. **In layman's terms, given the track record of corrupt actions which continue to go unaddressed, what faith can one have in their counsel?**

The ICJ, via its judgements has demonstrated an inclination to seek compromise, as opposed to meting out justice. Therefore, ask yourself, **"What portion or how much of Belize am I willing to GIVE UP, in order to placate Guatemala?"** Linked to this acknowledgement is the unquestioned inability of the ICJ to enforce its decisions. There are numerous instances in which it has ruled and the dissatisfied faction simply ignores the court. Given Guatemala's dismal track record, even in the (unlikely) event of a decision in favour of Belize, there is no guarantee Guatemala would comply. **Hence the erroneous assertion by those who support going to the ICJ, that the court's final and un-appealable decision shall somehow bring an end to the claim.** Earlier I spoke of the situation on the Sarstoon River, in which Guatemala currently exercises effective command and control. Along with the anemic response by our authorities which has both enabled and facilitated the Guatemalans, the existence of the Maritime Areas Act of 1992, despite Guatemala taking no action concerning it, the Act is law in Belize and one can rest assured, if Belizeans vote in favour of going to the ICJ, that gesture, which effectively signals Belize's willingness to give-up nine (9) nautical miles of our territorial waters, shall not go unnoticed.

(5) Viable Alternatives to the ICJ

**If there is one thing I hope you take from my presentation, it is the fact that going to the ICJ is neither the only, nor the most prudent means by which to address Guatemala's unfounded claim, under the current parameters.**

There are options, yet given the system of governance we employ, alongside the practises of those in positions of influence, once the political will does not exist, the prevailing-singular narrative which seeks to pigeonhole the society into believing there is no other option, eventually is treated as though it is gospel. That is why I am ever-grateful to the organisers of this forum, for it demonstrates a growing maturity, one which makes justifiable appropriation for alternative views on this all-important matter. **Therefore, I wish to impress upon you the fact that alternatives to going to the ICJ exist.** One such example involves that a "NO Vote" on the referendum, shall send a clear message to the powers that be, that our nation rejects that route. Hence they must honour the wishes of the electorate and not waste further: time money and effort by attempting to repackage the ICJ, without appropriate modifications, instead of tabling other options. Exploring the path of invoking Article 39 of the UN Charter as a means through which to address the issue is one alternative. It is a facility through which non-pacific disputes between nations can be addressed. The notion of "non-pacific" applies to instances in which relations between the principles are no longer conciliatory. The ongoing aggression by the Guatemalan military toward Belizeans, in Belizean territory, is testimony to its applicability.

**(6) Wrap-up**

I am against taking Guatemala's unfounded claim to the ICJ, under the current parameters, for a variety of reasons including: (1) the entirely inappropriate and one-sided Special Agreement whose only particular distinction is that it unduly favours Guatemala, (2) the premise of the Compromis flies in the face of all we know that represents, embodies and codifies what it means to be Belizean, (3) the gross failure of the GOB's "4A Policy" of: APPEASEMENT, ACQUIESCENCE, ACCOMMODATION and ADHERENCE, (4) the subsequent increase in Guatemalan aggression and encroachment into our territory as a result of the "4A Policy", (5) a justified lack of confidence in our officials regarding their commitment to acting in Belize's best interest, (6) the ICJ's orientation toward seeking settlement via compromise, as opposed to rendering justice, (7) the ICJ's inability to enforce its decisions particularly given Guatemala's documented history of renegeing on agreements, (8) the non-rescinded status of the Maritime Areas Act and the potential for it to be used against Belize, (9) there exists viable alternatives beyond the singular, bi-partisan narrative of the powers that be and (10) Guatemala is not a friendly neighbour and therefore must be engaged, via the UN, in an accordant manner.

It is for these, fundamental reasons among others, I appeal for you to take account of these realities. Those who extol that the ICJ will bring a final solution, are not only being disingenuous their actions are reckless. Amid this request, I pose a question for both thought and consumption. Throughout Belize's near thirty-six (36) years of independence, with the nation achieving international recognition via the United Nations (and all nations that do not covet our territory) as a sovereign state with its borders in-tact, we are full members of: the UN, CARICOM, SICA, the Commonwealth, the OAS and a variety of other regional and international groupings; therefore, **"What tangible, measurable and identifiable elements is Belize being deprived of, due to the fact Guatemala stands alone in their unfounded claim to our sovereign territory?"** That is the question I want you to ask yourselves, prior to casting your vote on the referendum.

In closing I wish to impart that ultimately, we the people, possess the power. There are those who will seek to confound you with legal jargon, to make you feel as though, only they have the solution to the inherited Anglo-Guatemalan Territorial Dispute. Yet, I hope it shall become increasingly clear that the application of basic, common sense is what is necessitated to ensure that the best interest of our nation is served.

Therefore, I trust my expressed reasons for advocating an unequivocal **"NO Vote to the ICJ"**, under the current stipulations causes Belizeans to pause, reason and ultimately cease giving undue credence to the singular narrative promoted by the bi-partisan political directive because, in tandem with the necessity for common sense and prudence to prevail, the old adage of "Sleep wid yu own eye" is profoundly applicable.

Thank you for your kind attention and in keeping with the hope that Belizeans and true friends of Belize, both at home and abroad can succeed in truly honouring the theme of this year's September Celebrations: *"Belize Confronting Challenges! Celebrating Triumphs Renewing Our Resolve!"*, particularly within the context of *'Security Threats, At Home and Abroad'*, I leave you with the mantra of those who share my perspective which conveys: **"8867 Today 8867 Tomorrow 8867 Forever; Belize, Sovereign and Free – NO ICJ!"**

References:

<https://www.oas.org/sap/peacefund/documents/specialagreement.pdf>

[http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/BLZ\\_1992\\_MAA.pdf](http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/BLZ_1992_MAA.pdf)