

**UPDATE TO THE COMMITTEE ON THE ELIMINATION OF  
RACIAL DISCRIMINATION  
81ST SESSION**

**IN ANTICIPATION OF  
THE COMMITTEE'S REVIEW OF BELIZE  
IN THE ABSENCE OF A STATE REPORT**

**SUBMITTED BY  
THE MAYA LEADERS ALLIANCE  
(BELIZE)**

**PREPARED WITH THE ASSISTANCE OF**

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## **I. Introduction**

1. The Maya Leaders Alliance (“MLA”), respectfully presents this shadow report to the Committee on the Elimination of Racial Discrimination (the “Committee”) in advance of the Committee’s Review of the State party of Belize in the absence of a periodic report from the state, and as an update to the October 13, 2006 request under the urgent action/early warning procedures.

2. The Maya people of southern Belize are at risk because the government of Belize is not upholding their rights enshrined in the Convention, in particular by a property regime that discriminates against indigenous forms of property, despite recommendations by the Inter-American Commission and orders of the domestic courts. The MLA respectfully requests that the Committee urge the government of Belize to:

- Adopt the legal and administrative mechanisms necessary to protect Maya land rights in southern Belize in accordance with the recommendations of the Inter-American Commission and the judgments of the Supreme Court of Belize; and
- Cease its efforts to overturn domestic judicial recognition of Maya rights of land and resources, and abstain from any acts that might affect the existence, value, use or enjoyment of the property located within the geographic area occupied and used by the Maya people until it develops a framework to delineate, demarcate, and title Maya lands in southern Belize.

### *History of the situation of the Maya of Belize before the Committee*

3. These observations follow up on previous communications dated October 2006, March 2007, July 2007, October 2007, March 2008, June 2008, and August 2011 which detailed the failure of Belize to recognize and respect the traditional land rights of the Maya villages of

Toledo District.<sup>1</sup> The information contained in those communications remains valid today and is incorporated by reference herein.

4. In response to these communications, the Committee has sent a series of letters to Belize in March and August of 2007, March 2008, and March 2012. Belize responded once, informing the Committee merely that a decision was pending in the Belize Supreme Court regarding Maya land rights, but without addressing the Committee's questions.

## **II. Background: Affirmation of Maya Land Rights in International and Domestic Law**

5. The Committee has confirmed that the failure of states to recognize and respect indigenous customary land tenure is a form of racial discrimination incompatible with the Convention, in particular article 5(d), and has called upon states to:

recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories.<sup>2</sup>

6. In addition to its obligations under the ICERD, Belize is specifically bound by its obligations under the *American Declaration on the Rights and Duties of Man* as a member of the Organization of American States to recognize and respect Maya land rights. In its final report on the case of the *Maya Indigenous Communities of the Toledo District Belize*, issued on October 12, 2004,<sup>3</sup> the Inter-American Commission determined that the Maya people of Belize have

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<sup>1</sup> The Maya Leaders Alliance also recently updated the Inter-American Commission on Human Rights in November 2011. Belize was previously the subject of a Universal Periodic Review by the Human Rights Council in June 2009.

<sup>2</sup> U.N. Comm. on the Elimination of Racial Discrimination, *General Recommendation XXIII: Rights of Indigenous Peoples*, para. 5, U.N. Doc. A/52/18 Annex V (Aug. 18, 1997). Faced with similar situations as the one in Belize, the Committee has previously expressed “concern” and “regret” that state parties have not taken necessary measures to “recognize and protect the rights of indigenous peoples to own, develop, control, and use their communal lands, territories, and resources”. See e.g., Concluding observations of the Committee on the Elimination of Racial Discrimination: Finland, CERD/C/63/CO/5 10 December 2003, para. 12; Concluding observations of the Committee on the Elimination of Racial Discrimination: Brazil, CERD/C/64/CO/2 28 April 2004, para. 15; Concluding observations of the Committee on the Elimination of Racial Discrimination: Argentina, CERD/C/65/CO/1, 10 December 2004, para. 16; Concluding observations of the Committee on the Elimination of Racial Discrimination: Costa Rica, CERD/C/60/CO/3 24 May 2002, para. 11.

<sup>3</sup> *Maya Indigenous Communities of Toledo District v. Belize*, Case 12.053, Report No. 40/04, Inter. Am. C.H.R., OEA/Ser.L/V/II.122 Doc. 5 rev. (2004), available at: <http://www.cidh.org/annualrep/2004eng/Belize.12053eng.htm>

communal property rights to the lands they traditionally use and occupy. The Inter-American Commission further found that by not recognizing and protecting those rights, Belize violated the rights to property (Article XIII), non-discrimination (Article II), and judicial protection (Article XVIII) guaranteed by the American Declaration of the Rights and Duties of Man.<sup>4</sup> The Commission stated:

respect for and protection of the private property of indigenous peoples on their territories is equivalent in importance to non-indigenous property, and...is mandated by the fundamental principle of non-discrimination...From the standpoint of human rights, a small corn field deserves the same respect as the private property of a person that a bank account or a modern factory receives.<sup>5</sup>

7. The Inter-American Commission recommended that Belize “adopt in its domestic law, ... the legislative, administrative, and any other measures necessary to delimit, demarcate, and title or otherwise clarify and protect” Maya land rights. It further recommended that until those measures have been carried out, Belize “abstain from any acts that might lead the agents of the State itself, or third parties acting with its acquiescence or its tolerance, to affect the existence, value, use or enjoyment of the property located within the geographic area occupied and used by the Maya people.”<sup>6</sup>

#### *Background: Domestic Litigation*

8. In conformity with these international principles, the rights of the Maya people of Belize to their traditional lands and resources have been affirmed by the Belize Supreme Court in two separate judgments.<sup>7</sup> This represents significant progress in the recognition of the Maya peoples’ land rights; however, these affirmations are being vigorously assailed by the government.

9. On October 18, 2007, the Supreme Court (Belize’s trial level court) issued a landmark decision in the *Re Maya Land Rights* case, finding in favor of the Maya villages. The Supreme Court held that the Maya customary land tenure exists throughout Toledo District, and that this system gives rise to property rights, which are protected by the constitution’s rights to property,

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<sup>4</sup>*Id.* paras. 193-195.

<sup>5</sup>*Id.* para. 119 (internal quotation omitted).

<sup>6</sup>*Id.* para. 197.

<sup>7</sup> *Maya Indigenous Communities of Toledo District v. Belize*, Case 12.053, Report No. 40/04, Inter. Am. C.H.R., OEA/Ser.L/V/II.122 Doc. 5 rev. (2004), available at: <http://www.cidh.org/annualrep/2004eng/Belize.12053eng.htm>

non-discrimination and life, liberty, security of the person and protection of the law. Specifically with respect to the right to non-discrimination, the court held that:

...[B]ecause of their communal aspect and unique source, Maya customary rights to lands and resources are by nature, different from the type of property rights routinely respected by government offices and ministries. Therefore, by failing to accommodate this difference by, for example, treating individualized leases as an adequate substitute for a Maya farmer's customary interest in his village lands . . . and by treating lands used collectively by Conejo and Santa Cruz Villages as vacant national lands, government officials, as agents of the defendants, are acting discriminatorily against the claimants.<sup>8</sup>

10. The court ordered the government to demarcate and title the customary lands of the two claimant villages. It also enjoined the government from interfering with the claimant Maya villagers' use and enjoyment of their lands by issuing leases, permits, or concessions in the area used by them until their lands are demarcated and titled.

11. Nevertheless, the government took no action to protect Maya land rights. By April 2008, a newly elected government had taken the position that the *Maya Land Rights* decision had no relevance to the Maya villages other than Conejo and Santa Cruz. Leasing and logging resumed full-force in Maya villages. In order to halt further destruction of Maya lands and crops, the MLA, together with the Toledo Alcaldes Association ("TAA")<sup>9</sup> and the Maya village of Golden Stream, sought and obtained interim protection from the Supreme Court in June 2008 against bulldozing and leasing within Golden Stream village.

12. The MLA, TAA and eventually 23 individual villages then filed a claim for constitutional redress seeking injunctive protection identical to that issued over Conejo and Santa Cruz lands for all the Maya villages of Toledo. The government of Belize strenuously opposed the claim, arguing both that the Maya people are not indigenous to Belize and that none of the villages meet legal requirements for their title to be recognized at law. On June 28, 2010, the Supreme Court in *Maya Leaders Alliance, Toledo Alcaldes Association and 23 villages v. AG Belize & Minister*

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<sup>8</sup> *Id.* para. 114.

<sup>9</sup>The Toledo Alcaldes Association is one of the member organizations of the MLA, and was also a petitioner before the IACHR. The TAA is the organization of all the customary elected leaders ("alcaldes") of all the Maya villages of southern Belize.

of *Natural Resource* (“*Maya Land Rights II*”),<sup>10</sup> once again affirmed the existence of Maya customary land tenure in all of the Toledo Maya villages.

13. The Court clarified that Maya customary rights are proprietary in nature, and issued a broad injunction against the government interfering, or tolerating third parties’ interference, with Maya use and occupation of their lands throughout Toledo, until there is an official mechanism for demarcating and documenting Maya villages’ title.

14. Although the government of Belize did not appeal the first *Maya Land Rights* case, it has appealed the 2010 decision. It continues to assert before the court and publicly that these rights do not exist or do not merit legal protection. The appeal was heard before a three-member panel in March and June 2011, and a decision is expected in October of this year.

15. The Prime Minister declared publicly that the government will appeal to the Caribbean Court of Justice should the judgment uphold the Maya peoples’ rights over their lands.<sup>11</sup>

### **III. The Government of Belize Continues to Deny and Undermine Maya Land Rights**

#### ***a. Lack of Demarcation and Recognition of Maya Village Lands***

16. As noted in previous communications by the MLA to the Committee, the government still has not begun to formally demarcate and title Maya villages’ land, even in the villages of Santa Cruz and Conejo, whose recognized legal title will be unaffected by the current litigation.

17. In addition, the government continues to lease lands to Maya farmers within their own villages, and demand rent for those leases. These leases are very often to lands to which the farmers already enjoy customary rights, but feel obligated to obtain leases because those customary rights are not recognized and thus their tenure is fragile without a government issued

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<sup>10</sup> *MLA, TAA and 23 Maya villages v. AG Belize*, Civil Appeal No. 27 of 2010 (judgment pending).

<sup>11</sup> See “*PM expects Maya land case to result in appeals*” Channel 5 News, June 12, 2009 (“..the government certainly is convinced that this issue must be ventilated at the highest level... It is a huge national issue and I believe that no matter which way the decision at first instance goes, there will be appeals.”) available at <http://edition.channel5belize.com/archives/1448>; “*Mayas win historic case against GOB*” Love FM, June 28, 2010 (“From the onset of the legal dispute, government had stated that it would appeal the case to the highest court, now being the Caribbean Court of Justice”) at <http://www.lovefm.com/ndisplay.php?nid=12254&fromsrch=1>

lease. Because the government leases lands in rectangular blocks of a given number of acres, while Maya customary tenure distributes lands in accordance with natural boundaries in sizes that conform to the ability of the farmer to work them, government leases usually encompass lands farmed by other villagers, which occasionally creates unnecessary and divisive conflicts among villagers because leaseholders (who are now paying for their leases) internalize the government position that leases supercede customary rights. In fact, the Supreme Court judgments make clear that leases can only be taken subject to customary rights, and are for the most part not even within the government's jurisdiction to grant where customary title exists.

***b. Leasing of Maya Village Lands to Third Parties***

18. Much more dangerous to Maya customary rights than leases to Maya farmers themselves is the reduced but continuing practice of carving up communally-held Maya lands and parcelling the lots to individual leaseholders. To the government's credit, this practice has significantly diminished since the imposition of the June 2010 injunction, which specifically precludes the government from issuing new leases and permits on Maya lands. Unfortunately, despite the injunction, it has not completely ceased.

19. For example, in September 2011, Santa Anna villagers discovered evidence of unauthorized logging in their lands. On investigation, they discovered that the logging was taking place on behalf of Grace (Graciela) and Betty Coleman and Nigel Vernon, who provided the alcalde with lease maps for 52.19, 21.35, and 30 acres respectively. The Colemans' lease papers were issued to them and signed by the Ministry on November 3, 2010, after and in violation of the *Re Maya Land Rights II* injunction.<sup>12</sup>

20. In a more recent example, a Mr. Leroy Supaul was given permission to survey lands in the Maya village of San Pedro Columbia for a lease by the Lands Department. The surveyor that he hired advised him that the lands are part of a Maya village and he should seek permission before acting on the government's permit. Mr. Supaul came to the MLA offices to seek

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<sup>12</sup> No. 1289 of 2007 "Plan of Block No. 1 situate along the south side of Roaring Creek, west of Santa Ana village, Toledo District, granted to Nigel Jason Vernon" (January 8, 2008); No. 499 of 2010 "Plan of Block No. 3 situate on the Northeast side of Roaring Creek and west of Santa Ana Village, Toledo District" (November 3, 2010); No. 498 of 2010 "Plan of Block No. 4 situate on the Northeast side of Roaring Creek and west of Santa Ana Village, Toledo District" (November 3, 2010).[attached]

permission to commence surveying; the MLA informed him that such permission has to come from a village meeting, and to speak with the alcalde. Again, permission was sold or granted to this individual by the state without any notice to him of the Maya interest, and conflict was prevented only by the knowledge and goodwill of a local professional.

### ***Logging Permits to Harvest Maya resources***

21. As with leases, the government's issuance of logging permits has decreased significantly since the 2010 injunction was imposed, but not ceased entirely. As an example, a logging permit was issued in November 2011 to a Rodwell Williams. The area is described in the permit as being "500 acres near the Jacinto Ville area" (Jacintoville is a non-Maya village), but the attached map is of lands in Golden Stream village.<sup>13</sup>

22. More serious has been the failure to respect Maya customary norms concerning logging. Following the 2007 *Maya Land Rights* case, the Forest Department quite properly relinquished authority for regulating logging in Maya villages. The 2010 judgement in *Re Maya Land Rights II* confirmed that Maya village lands are not national lands. Some villages have implemented formal written processes in accordance with customary practice to regulate commercial logging by villagers. Others continue to rely on the traditional oral process of seeking permission from the village meeting and alcalde.

23. However, the Forest Department did not accord any significance to the customary law of Maya villages, nor direct and require persons seeking commercial logging permits to seek to obtain permission from the respective village. Instead forestry officials, both directly and by implication, communicated that without Forest Department regulation, the courts had extended unlimited rights to commercially harvest timber to Maya villagers.<sup>14</sup> The Forest Department began a practice of stamping all logs harvested from village forests for commercial sale, without

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<sup>13</sup> Licence to Exploit Forest Produce (other than chicle and crown gum) Not for Sustained Yield Working, Forest Licence #GL 37/11, issued to Rodwell Williams, November 14, 2011 – June 15, 2012. [attached]

<sup>14</sup> This position appears to have been adopted after an initial position that Maya villagers had rights to harvest resources, but not to transfer them to anyone outside the village. In May 2010, bay leaves that Conejo village had allowed a Maya farmer from another village to harvest on their lands for roofing his home were confiscated and rendered useless by Forestry officials on the grounds that Conejo had no authority over its resources once they had left village lands, and that since these resources had been harvested without a permit, they were illegal outside of Conejo lands. See MLA communication to CERD of August 18, 2011. Or perhaps government officials take these contradictory positions simultaneously.



requiring proof that logs were cut with the permission of the village from whose territory they were taken. In effect, this practice provided official blessing for illegal logging on Maya lands at a time when demand for, and prices of, rosewood timber – most of which is located on Maya lands - had dramatically increased. This “our law or no law” attitude created an explosion of illegal logging in Maya villages by both Maya and non-Maya loggers. Private buyers offering cash on delivery and export companies, including one related to the Minister responsible for forestry, profited greatly from this arrangement.<sup>15</sup>

24. Alcaldes of villages that had sought to cooperate with the Forest Department to harvest commercial timber in a self-regulated fashion become overwhelmed by the problem. Alcaldes (who have no offices, staff or budget) were unable to identify all the offenders and therefore enforce customary norms against such behaviour.

25. This approach by government officials ironically resulted in a judgment affirming the validity and legal force of Maya customs and norms being used to undermine and subvert the authority of those norms in practice, and created a situation of lawlessness.

26. More positively, the government addressed the corruption issues by appointing Lisel Alamilla, a conservationist who had been involved in exposing them, as Minister for Forestry. Minister Alamilla issued an immediate moratorium on rosewood harvesting, and is encouraging Maya villages to develop formal sustainable forestry plans, which is again a positive move.

27. While action to curtail illegal logging on Maya lands was necessary, the moratorium was issued without any consultation with or input from the Maya villages themselves. This move is indicative of the same dismissive attitude towards Maya customary law that contributed to the problem of illegal logging in the first place. Rather than recognize that Maya villages have their own laws regulating rosewood harvesting, the Minister has imposed a complete ban pending an

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<sup>15</sup> An investigation into rosewood logging in Toledo by a joint team from the MLA, PGTV (a local media outlet) and the Yax'che Conservation Trust in August 2011 discovered proof that Forest Department officials, in particular Mr. Charles Rivas, are not only tolerating but facilitating and even organizing the rapacious harvesting of rosewood by distributing a “right to buy” from Maya villages among private buyers, and by allowing at least one of these buyers to place official government stamps on unmarked harvested logs without the involvement of any Forest Department officials, and without requiring any proof that they had been harvested with the permission of the relevant village. One of the buyers involved is the Vega Imports and Export company, a family enterprise that is alleged to be owned by relatives of the Deputy Prime Minister and Minister of Natural Resources Gaspar Vega. *See* Maya Leaders Alliance, “Rosewood Field Investigation”, August 10, 2011. [attached]

assessment of the situation. The moratorium does not respect Maya resource rights, in that it prevents the Maya villages from enforcing their customary laws regarding harvesting forest products on their own lands. Furthermore, there has been no indication that officials will consult with Maya leaders as part of the assessment.

***Ongoing privileging of statutory or common law property claims over Maya customary rights by law enforcement***

28. The *Re Maya Land Rights II* litigation was provoked when a non-Maya individual, Mr. Johnson, began bulldozing a Maya farmer's crops in the village of Golden Stream in order to plant rice. Mr. Johnson claimed that he had a lease to the area; the Maya farmer had crops in the ground, including corn and mature cacao trees that provided physical evidence of his customary occupation. Mr. Johnson never presented *any* proof of his alleged lease over the area – even during the subsequent litigation – and yet the Lands Department and the police both supported his claim and ordered the Maya village to allow the bulldozing to continue.<sup>16</sup>

29. This pattern continues. State officials continue to support (usually non-Maya) government-created rights over Maya customary rights, even in instances where the non-Maya parties do not present actual proof of the government-created rights. The Maya villages continue to have to deal with individuals from outside the village entering on their lands and claiming ownership.

30. For example, unauthorized logging took place in the village of Santa Anna in April 2011. Village leaders investigated and identified three individuals from other villages who had cut the timber. Upon being called to Santa Anna by the alcalde, these three admitted to the logging on behalf of a Mr. Edwards, a local, non-Maya timber buyer. As the village leaders and the three men were preparing written statements for the loggers to sign, Mr. Edwards arrived with police officers (one of whom was heavily armed), and two Forest officers. Mr. Edwards asserted, without any documentation, that he held a lease to the lands where the logging had taken place. The police did not allow the three men to remain and sign their written statements, but escorted

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<sup>16</sup> The fact that Mr. Johnson never provided proof of his lease is noted at paragraph 115 of the *Re Maya Land Rights II* judgment. Details of the police and Lands Department actions can be found in the First Affidavit of Juan Pop [attached]

them from the village, and encouraged them (unsuccessfully) to sue the Santa Anna alcalde for false imprisonment.

31. The alcalde of Golden Stream was similarly treated by law enforcement when he attempted to halt logging by Rodwell Williams on his village's land. In that case, Mr. Williams did have lease documents (see paragraph 21, *supra*), but the lease had been clearly issued in violation of the 2010 court injunction. Nevertheless, on the basis of that lease, police visited the alcalde and threatened to arrest him if he interfered any further in Mr. William's logging activities.

32. In a similar example, in October 2011 farmers in the Maya village of San Marcos notified their alcaldes of illegally cut timber in their village lands. The alcalde took 56 men of the village to confiscate the illegal rosewood timber and carry them to the community center. Three days later two Forest Officers officers (Charles Rivas<sup>17</sup> and Bonifacio Tut) and two village council members from Yemeri Grove, a neighbouring non-Maya village arrived in San Marcos.<sup>18</sup> Mr. Charles Rivas ordered the Alcalde to turn over the confiscated rosewood to the Yemeri Grove leaders without any inquiry into the circumstances or location of its confiscation. The San Marcos leaders refused to do so and explained that the logs were illegally harvested within their village lands without approval. Later that evening four unidentified individuals drove into the village and stopped in front of the Alcaldes' house and called out instructions for him to release the confiscated logs. Villagers became aware of the disturbance and came out en masse to support their alcalde. The persons then identified themselves as police officers, although none were in uniform.<sup>19</sup> One of the people in the vehicle<sup>20</sup> briefly flashed a handgun and primed it, causing villagers to disperse in fear of violence. The vehicle then left the village. A few days later, Forest Officers and a Yemeri Grove leader returned to San Marcos and demanded the release of the timber. The Forest Officer vehemently asserted that the Alcalde had no authority to confiscate the logs and threatened him with legal consequences. In the face of such pressure,

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<sup>17</sup> Charles Rivas has been implicated in organizing illegal logging of rosewood in Toledo; *see* Maya Leaders Alliance, "Rosewood Field Investigation", August 10, 2011.[attached]

<sup>18</sup> The Yemeri Grove men were Lawrence Usher and Arden Edwards.

<sup>19</sup> Three of the individuals were identified by the villagers as Harold Usher (a officer who was currently suspended from active duty and facing charges relating to drug trafficking), Arden Edwards, and Jerry Usher (an active police officer and resident of Yemeri Grove village).

<sup>20</sup> Harold Usher.

the alcalde, released the logs. A complaint concerning the armed night visitors was made to the police, who to the best of our knowledge have not investigated the incident.

33. In October 2010, two men - including the brother of the then Maya cabinet minister and area representative, Mr. Juan Coy - claimed a leasehold interest over San Pedro Columbia village lands that were being farmed by community members in accordance with custom. They sprayed herbicides on some of the crops being grown on the land. Despite rulings by the village alcalde that the farmers were using the land in accordance with Maya land tenure norms, when the farmers continued to do so, police summonsed one of them, Ms. Cus, to magistrate court for trespass. Fortunately, in light of the injunction the magistrate declined to hear the case.

34. In a number of Maya villages throughout 2011 and 2012, police and government officials have provided no support to alcaldes who attempted to enforce Maya customary norms against loggers cutting rosewood timber in their lands.

35. In the face of inaction by the central government, it falls to Maya villages and their leadership organizations to attempt to enforce the injunction. Alcaldes and village chairmen are government officials, and as such they have a legal obligation to honour and enforce the injunction. They cannot permit third parties acting with the government's "acquiescence or tolerance" to interfere with Maya use and occupation of their lands. Yet they are not assisted in this duty by the police. Instead, as demonstrated above, instead of supporting alcaldes in this duty, police have actively prevented Maya leaders from enforcing the law.

### ***Oil Exploration and Drilling***

36. Much of the area used and occupied by Maya villages is covered by oil exploration and extraction concessions. The focal point of this issue for the last several years has been the Sarstoon-Temash National Park, which is made up of the lands of five indigenous (four Maya and one Garifuna) villages, who co-manage the park through a joint organization, SATIIM.<sup>21</sup> As

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<sup>21</sup> Under Belize's *National Parks System Act*, the declaration of a National Park has no effect on any existing property rights (the statute is available at [www.belize.gov.bz/portal/page/portal/legislation](http://www.belize.gov.bz/portal/page/portal/legislation)). Thus, the Sarstoon-Temash National Park coexists with, and is subject to the villages' title, while their use of the lands is circumscribed by the restrictions of the *NPA*. This legal situation has not been formally recognized by the government, since it continues to deny the existence of Maya customary title, but in practice has been managed and accommodated by the designation of SATIIM as co-manager of the park.

the park is made up of Maya village lands, including Conejo village lands, both the 2007 and 2010 injunctions apply, and both explicitly enjoin permits under the *Petroleum Act*.

37. Nevertheless, in mid-October of 2011, US Capital Energy began cutting seismic testing lines in lands belonging to Sunday Wood village within the Sarstoon Temash National Park. Neither SATHIM nor the villages were ever advised that a permit had been issued and activities authorized to recommence, and only become aware of the activities after cutting of the lines had begun.<sup>22</sup> The company was acting under a permit issued in March 2011, in clear violation of the injunction.<sup>23</sup> There has likely been a further permit issued in March 2012, but the MLA has not as yet been able to confirm or obtain a copy.

38. This year (2012), seismic survey lines have been cut in village lands of Crique Sarco, Corazon, and Sunday Wood. These are lands well beyond the boundaries of the Sarstoon National Park, and thus of the permit. Despite the specific exclusion of Conejo village lands written into the permit, the company also attempted to open lines there, but were prevented from doing so by villagers.

39. Since the affected villages have not even been informed of the activities, much less provided their consent, the presence of the drilling rigs is a direct violation of the 2010 injunction, and is also a violation of Belize's *Petroleum Act*, which requires oil companies to obtain the consent of landowners and lawful occupiers before entering their lands for exploration and extraction activities.<sup>24</sup>

40. In addition, in the summer of 2011, residents of Medina Bank, a Maya village to which the 2010 injunction applies, learned that Treaty Energy Corporation, a partner of Princess

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<sup>22</sup> See "'End the Secrecy' SATHIM demands explanation for US Oil Company's return to National Protected Lands" available at <http://sathim.blogspot.com>.

<sup>23</sup> Forest Department, Ministry of Natural Resources and the Environment, "Permission Granted under Section 6 of the National Parks System Act, Chapter 215, The Substantive Laws of Belize, Revised Edition 2000-2003; Section 8 of the Petroleum Act; Regulation 3(2) of the Environmental Impact Assessment Regulations" March 28, 2011. [attached]

<sup>24</sup> See *Petroleum Act*, Revised Laws of Belize 2000, Ch. 225, s.26(1)(b), "A contractor shall not exercise any of his rights under a petroleum contract...(b) except with the written consent of the owner or lawful occupier thereof: Provided that where the consent of the owner or lawful occupier is withheld, if the Minister, on an application by the contractor, and after hearing both the parties, is satisfied that such consent is being unreasonably withheld, may by Order, direct the owner or lawful occupier to allow the contractor to conduct petroleum operations on the land on such terms and conditions and within such periods as may be specified in the Order." [emphasis added] The Petroleum Act is available online at [www.belize-law.org/lawadmin/index2.html](http://www.belize-law.org/lawadmin/index2.html)

Petroleum,<sup>25</sup> will commence drilling in its lands as soon as equipment is ready. The village has received no formal notice of these plans, nor which lands will be affected, nor has the company obtained its consent to such activity in its lands, as required from owners under the *Petroleum Act*.<sup>26</sup>

41. The MLA and SATHIM have written to the Prime Minister about this problem, but hold little hope for a positive response without further pressure. After all three injunctions impeding oil development in the park, Prime Minister Barrow identified the Toledo District as having the highest potential for oil extraction and stated that drilling will occur in the STNP.<sup>27</sup>

### ***Highway Construction***

42. Construction and paving of the Jalacte highway that will connect Belize to Guatemala and run through a number of Maya villages, including Santa Cruz, has been given new funding by the Central American Bank of Economic Integration, and is moving ahead.<sup>28</sup> Its construction was suspended in the 1990s after the affected Maya villages notified the project's funders of their concerns that the road construction would precipitate a land grab. Funding for the highway was then made conditional upon recognition and documentation of Maya customary land rights, and so the road was not built.

43. None of the villages involved have been asked for, nor extended, their consent to have what is currently a dirt road, almost a track in places, through their villages paved. Santa Cruz village in particular has repeatedly and specifically requested consultation concerning the road, since not only the 2010 but also the 2007 injunction protects its lands from interference, and they have received no official notice of compulsory acquisition, nor offer of compensation for the

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<sup>25</sup> Treaty Energy Corporation and Princess Petroleum are represented by the Prime Minister's law firm, see "Barrow & Williams Oil Law Firm?" *Belize Times* (June 16, 2011), available at <http://www.belize-times.bz/2011/06/16/barrow-williams%E2%80%99-oil-law-firm/>. The Prime Minister's nephew, Kimano Barrow, has been awarded an oil concession for an area around the Maya Mountains in the Toledo District, see See "Protests in Belize over Oil Drilling". *The Belizean* (February 2, 2011), available at <http://belizean.com/news/protests-in-belize-over-oil-drilling/#ixzz1a12O3j6P>.

<sup>26</sup> Adele Ramos, "Princess team plans to drill for oil in Medina Bank and Monkey River area", June 5, 2011, AMANDALA, available at: <http://www.amandala.com.bz/index.php?id=11183>.

<sup>27</sup> "PM's call to 'Drill at Will' in protected areas" Channel 5 News (February 10, 2011), available at <http://ourbelize.net/phpbb3/viewtopic.php?f=32&t=2477>; "SATHIM says NO drilling" *Amandala* March 11, 2011, available at <http://amandala.com.bz/index.php?id=10974>.

<sup>28</sup> See "Belize's Ambassador to Guatemala talks about highway to Jalacte", Channel 5 News, (June 7, 2011), available at <http://edition.channel5belize.com/archives/55582>.

construction of the paved road through their lands. All of the villages continue to have the same concerns about the potential for conflicts over the highway lands, particularly in light of their continuing lack of official documentation of their title.

### **Potentially Positive Developments**

44. As CERD is aware from previous updates, in August 2009, the Ministry of Labour, Local Government and Rural Development announced a new National Policy on Local Governance, funded by the United Nations Development Program. This initiative involved developing and implementing a new *Alcalde Act* and a Village Boundaries Demarcation law. The government's stated objective in revising the *Alcalde Act* was to "respect, clarify and give more legal standing to the Alcalde system of local governance" in furtherance of the broader objective of "recognising and respecting the rights of indigenous peoples."<sup>29</sup>

45. A new *Alcalde Act* has been developed through extensive consultations with the Maya alcaldes by the MLA, and input from the National Local Governance Monitoring Council, was presented to the government the fall of 2011.<sup>30</sup> This draft bill represents a significant step forward towards formal recognition of Maya customary rights, including land rights.

46. The proposed *Alcalde Act* will go a long way toward clarifying the authority of alcaldes in situations where there are disputes between villagers over ownership of farmland. However, if the government rejects the results of the consultation and uses the bill to attempt to limit the traditional powers and jurisdiction of the alcaldes, the new Act could have a very destructive and divisive effect on the Maya villages. The MLA and TAA do have some concern that the Cabinet and the National Assembly may excise vital aspects inserted in the Bill through the consultation process, while claiming legitimacy as a result of that very process.

47. However, there has been no further response to the draft from the government, nor progress in advancing the new *Alcalde Act* into law. No draft of a new *Village Boundaries Act*

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<sup>29</sup> *National Policy on Local Governance in Belize*, Ministry of Labour, Local Government and Rural Development, (Government of Belize, Belmopan) August 2009, p. 4,8, and 10 [attached]

<sup>30</sup> Proposed *Alcalde Act* bill [attached]

appears to ever have been circulated. We believe that the funding for the project that included these two new laws has expired.

#### **IV. Conclusion and Requests of Committee**

48. While the Government has been clearly informed that Maya customary land rights exist in Toledo District, it continues to the legal validity of those rights outside of Conejo and Santa Cruz villages, and continues to litigate their existence. In the case of Conejo and Santa Cruz, the government has not taken any steps to provide official documentation of their title. In practice, the government of Belize is for the most part honouring the letter of the injunction while undermining its spirit. The government has failed to prevent third parties from, and in some cases has facilitated, extracting timber and oil from Maya lands, and has undermined Maya village leaders' efforts to protect their own lands and resources from such incursions.

49. This failure to provide Maya people with a mechanism to protect and secure their customary rights, as it provides to other forms of property, is discriminatory, and is in violation of the Convention on the Elimination of All Forms of Racial Discrimination.

50. Accordingly, we respectfully request that the Committee, at its review of Belize, to seek the commitment of the government of Belize, and regardless of the outcome of the current litigation, to:

- Adopt the legal and administrative mechanisms necessary to protect Maya land rights in southern Belize in accordance with the recommendations of the Inter-American Commission and the judgments of the Supreme Court of Belize; and
- Cease its efforts to overturn domestic judicial recognition of Maya rights of land and resources, and abstain from any acts that might affect the existence, value, use or enjoyment of the property located within the geographic area occupied and used by the



Maya people until it develops a framework to delineate, demarcate, and title Maya lands in southern Belize.

DOCUMENTS ATTACHED:

*Note: Documents that are easily accessible on the Internet are not attached; rather the URLs where they can be found are identified in the footnotes.*

1. No. 1289 of 2007 “Plan of Block No. 1 situate along the south side of Roaring Creek, west of Santa Ana village, Toledo District, granted to Nigel Jason Vernon” (January 8, 2008);
2. No. 499 of 2010 “Plan of Block No. 3 situate on the Northeast side of Roaring Creek and west of Santa Ana Village, Toledo District” (November 3, 2010);
3. No. 498 of 2010 “Plan of Block No. 4 situate on the Northeast side of Roaring Creek and west of Santa Ana Village, Toledo District” (November 3, 2010);
4. Licence to Exploit Forest Produce (other than chicle and crown gum) Not for Sustained Yield Working, Forest Licence #GL 37/11, issued to Rodwell Williams, November 14, 2011 – June 15, 2012;
5. Maya Leaders Alliance, “Rosewood Field Investigation”, August 10, 2011;
6. First Affidavit of Juan Pop filed in *MLA, TAA and others v. AG Belize and others* (preliminary injunction motion), dated May 31, 2008;
7. Forest Department, Ministry of Natural Resources and the Environment, “Permission Granted under Section 6 of the National Parks System Act, Chapter 215, The Substantive Laws of Belize, Revised Edition 2000-2003; Section 8 of the Petroleum Act; Regulation 3(2) of the Environmental Impact Assessment Regulations” March 28, 2011.
8. *National Policy on Local Governance in Belize*, Ministry of Labour, Local Government and Rural Development, (Government of Belize, Belmopan) August 2009.
9. Proposed Alcalde Act bill (TAA proposal).