



# MAYA LEADERS ALLIANCE

&

# Cultural Survival

United Nations Universal Periodic Review (UPR)  
**Joint Stakeholder Submission on BELIZE**

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*Prepared with the assistance of:*

Seánna Howard  
Indigenous Peoples Law & Policy Program  
University of Arizona, Rogers College of Law  
1201 E. Speedway Blvd., Tucson, Arizona, USA 85721  
Tel (520) 621-5622 Fax (520) 626-1819

*The Maya Leaders Alliance (MLA) was organized to represent the rights of the Maya villages in the Toledo district. It is an umbrella organization, composed of a variety of representative and sectoral Maya organisations including the Toledo Alcaldes Association formed by the traditional elected leaders of all the Maya villages of southern Belize.*

*Cultural Survival is an international indigenous rights organization with a global indigenous leadership and consultative status with ECOSOC since 2005. Cultural Survival is located in Cambridge, Massachusetts, and is registered as a 501(c)(3) non-profit organization in the United States. Cultural Survival monitors the protection of indigenous peoples' rights in countries throughout the world and publishes its findings in its magazine, the Cultural Survival Quarterly; and on its website: [www.cs.org](http://www.cs.org). In preparing this report, Cultural Survival collaborated with student researchers from University of Denver and consulted with a broad range of indigenous and human rights organizations, advocates, and other sources of verifiable information on Belize.*

# Maya Leaders Alliance and Cultural Survival submission to the Universal Periodic Review of Belize

## I. Introduction

1. The Maya Leaders Alliance (MLA) and Cultural Survival welcome the opportunity to contribute to the Human Rights Council's Universal Periodic Review (UPR) of Belize. In the 2009 review of Belize, numerous States addressed the country's lack of recognition and protection of Maya customary title in the Toledo District. Belize was encouraged to address the issue and to implement the judgments of the Supreme Court of Belize in the Maya Land Rights Cases (2007 & 2010)<sup>1</sup> and the 2004 recommendations of the Inter-American Commission on Human Rights (IACHR) in *Maya indigenous community of the Toledo District v. Belize*.<sup>2</sup> Little progress has been made since that time.

2. During the first round of Universal Period Review of Belize on 5 May 2009, the Working Group adopted the following recommendations and urged Belize to:

*Redouble its efforts in favor of the respect of the rights of indigenous peoples, in line with the provisions of the United Nations Declaration on the Rights of Indigenous Peoples (Mexico);<sup>3</sup> and*

*Protect Mayan customary property rights in accordance with Mayan customary laws and land tenure practices in consultation with affected Mayan people of the whole Toledo district (Slovenia).<sup>4</sup>*

3. Belize accepted the recommendation with respect to the UN Declaration but deferred on the land rights issue. Belize also made a commitment to engage the UN Special Rapporteur on the rights of Indigenous Peoples stating: "The situation of the Maya of Belize is a matter of national importance. Belize intends to engage the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people." It has not done so, to the best of our knowledge.

4. Since the UPR report was issued in 2009, the government of Belize has quietly granted an American oil company, US Capital Energy, drilling rights to protected Maya lands inside

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<sup>1</sup> *Cal et al. v. Attorney General (Belize)* and *Coy et al. v. Attorney General (Belize)*, Consolidated claims 171 and 172 of 2007 (18 October 2007), (*Re Maya Land Rights I*); *Maya Leaders Alliance, et al. v. Attorney General of Belize, et al.*, Claim number 366 of 2008, June 28, 2010 (*Re Maya Land Rights II*)

[http://www.belizelaw.org/supreme\\_court/judgements/2007/Claims%20Nos.%20171%20and%20172%20of%2007%20\(Consolidated\)%20re%20Maya%20land%20rights.pdf](http://www.belizelaw.org/supreme_court/judgements/2007/Claims%20Nos.%20171%20and%20172%20of%2007%20(Consolidated)%20re%20Maya%20land%20rights.pdf)

<sup>2</sup> *Case of Maya Indigenous Communities of Toledo v. Belize*, Case 12.053, Inter-Am. C.H.R Report No. 40/04 (2004) available at: <http://www.cidh.org/annualrep/2004eng/Belize.12053eng.htm> ("Maya Communities").

<sup>3</sup> Human Rights Council, Universal Periodic Review, Report of the Working Group on the Universal Periodic Review: Belize, 4 June 2009, A/HRC/12/4 at para. 67(35).

<sup>4</sup> *Id.* at para. 68(9).

the Sarstoon-Temash National Park<sup>5</sup> in the Toledo District of Southern Belize. The decision to issue this grant is in defiance of two Supreme Court decisions as well as the recommendations of the IACHR and the UPR Working Group.

5. The Sarstoon-Temash Institute for Indigenous Management (SATIIM), which co-manages the park, only became aware of the oil permit after the company had suddenly returned to the park. The Maya villages were not informed of the oil exploration activities, much less provided their consent. Therefore the presence of the company and its equipment is a direct violation of the 2007 and 2010 Supreme Court injunctions, and is in direct contravention 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.
6. Belize voted in favor of the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), thereby committing to uphold the human rights standards contained therein, including the right to free, prior and informed consent (Articles 10, 11, 19, 29, 32).<sup>6</sup> This principle of free, prior and informed consent is also set out in the International Labor Organizations *Convention concerning Indigenous Peoples in Independent Countries* (ILO 169). Belize however has not signed nor ratified this convention that protects the rights of a large portion of its population.

## II. History and Background

7. In 1994, without consultation, the government of Belize designated a significant portion of Maya ancestral land a national park. Three years later, when the Maya found out about this classification of their land, a co-management agreement was put in place. In 2001, again without consultation, the government of Belize entered into a Production Sharing Agreement that granted U.S. Capital Energy Belize Ltd. ("U.S. Capital") exclusive rights to conduct oil exploration within a twelve-square-mile area of the park.<sup>7</sup>
8. On October 12, 2004, the IACHR issued a decision recommending that Belize delimit, demarcate and title the traditional lands of the Maya people of the Toledo district.<sup>8</sup>
9. In 2006, after SATIIM discovered that U.S. Capital Energy was going to conduct seismic testing within the national park, they obtained a temporary injunction halting oil exploration within the park until an Environmental Impact Assessment was completed.<sup>9</sup>

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<sup>5</sup> Under Belize's *National Parks System Act* (available at [belizelaw.org](http://belizelaw.org)), the declaration of a National Park has no effect on any existing property rights. 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.

<sup>6</sup> Article 32(2): States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions **in order to obtain their free and informed consent prior** to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

<sup>7</sup> U.S. Capital Energy Belize Ltd. Production Sharing Agreement, January 22, 2001 (on file with author).

<sup>8</sup> Maya Communities, *supra* note 2.

<sup>9</sup> Belize Supreme Court, *SATIIM v. Forest Department*, Claim 212 of 2006 (September 27, 2006). Available at [www.elaw.org/system/files/bz.satiim.decision.doc](http://www.elaw.org/system/files/bz.satiim.decision.doc)

10. In April 2007, two Maya communities, Conejo and Santa Cruz, filed actions in the Supreme Court of Belize for recognition of their property rights under the Belizean Constitution. On 18 October 2007, the court held in *Re Maya Land Rights* that Maya customary land tenure exists throughout Toledo District, giving rise to constitutionally-protected property rights, and ordered the government to delimit, demarcate and title the lands.<sup>10</sup>
11. In February 2008, Prime Minister Dean Barrow was elected. Initially, the government showed signs of compliance with the 2007 court decision by issuing a directive requiring the Departments of Forestry, Fisheries, Environment and Petroleum and Geology to “immediately cease all activities and/or operations on, or to otherwise deal with, land in the Toledo District.”<sup>11</sup>
12. By April 2008, the government asserted that the judgment only applied to the Conejo and Santa Cruz villages.<sup>12</sup> In June 2008, leaders of multiple Maya villages sued for constitutional redress. On 28 June 2010, the Supreme Court reaffirmed its judgment of 18<sup>th</sup> October 2007 and the customary land rights of the Maya in *Maya Leaders Alliance, Toledo Alcaldes Association and 23 villages v. AG Belize & Minister of Natural Resources (“Maya Land Rights II”)*.<sup>13</sup> The judgment included an injunction against the government interfering or allowing interference by third parties in the use and occupation by Mayan people to their land in the Toledo District.<sup>14</sup>
13. The 2007 and 2010 judgments followed the decision of the IACHR in 2004 that recommended Belize demarcate Maya ancestral lands to remedy violations of Maya peoples’ rights to property, non-discrimination, life, liberty, security of the person and protection under the law that arise from a failure to recognize the customary property rights of the Maya people.

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<sup>10</sup> *Maya Land Rights I*, *supra* note 1.

<sup>11</sup> *Id.* at para. 19 (vi). Minutes of first meeting between government and MLA re: implementation of *Maya Villages* case (March 26, 2008); Memorandum SGF/40/01/08(3), from the Solicitor General, Attorney General’s Ministry, to All Chief Executive Officers, Commissioner of Lands, and Departments of Forestry, Fisheries, Environment and Petroleum, and Geology (March 27, 2008).

<sup>12</sup> Memorandum SGF/40/01/08 (23) from Solicitor General, Attorney General’s Ministry, to All Chief Executive Officers, Commission or Lands, and Departments of Forestry, Fisheries, Environment and Petroleum and Geology (April 23, 2008).

<sup>13</sup> The Supreme Court of Belize ordered the government of Belize to:

“in consultation with the Maya people or their representatives, to develop the legislative, administrative or other measures necessary to create an effective mechanism to identify and protect Maya customary property rights in land in accordance with Maya customary laws and land tenure practices.”

<sup>14</sup> The government of Belize was ordered to:

“cease and abstain from any acts that might lead the agents of the government itself, or third parties acting with its leave, acquiescence or tolerance, that might adversely affect the existence, value, use or enjoyment of the lands located in the Toledo District, occupied and used by Maya villagers in the said villages, unless such acts are with their informed consent and in conformity with the safeguards of the Belize Constitution. This order includes, but is not limited to, directing the government represented by the defendants, to abstain from... issuing any leases or grants to lands or resources under the National Lands Act or any other Act.”

14. The government appealed the 2010 decision<sup>15</sup> but not the first *Maya Land Rights* case of 2007. It continues to assert before the court and publicly that Maya land rights do not exist or do not merit legal protection. The Prime Minister of Belize declared publicly that the government will appeal to the Caribbean Court of Justice should the Court uphold the Maya peoples' rights over their lands.<sup>16</sup> The decision on the appeal is still pending as of March 2013. In the meantime, the injunction remains in place. The 2007 injunction against interference with Conejo and Santa Cruz village lands was not appealed and also remains in full effect regardless of the outcome of the current appeal.
15. In 2009, Belize underwent Universal Periodic Review in May 2009. Since that time, the recommendations related to Maya land rights have been largely ignored.
16. In October 2012, US Capital Energy issued its environmental impact assessment (EIA) for its proposal to drill in the Sarstoon-Temash National Park. The environmental impact assessment process did not respect the Maya's rights to free, prior, and informed consent. The 300-page environmental impact report is written in technical English, and has not been translated into the Indigenous Maya Q'eqchi language. This has limited the Maya peoples' ability to understand and analyze the report to effectively participate in the EIA process. The sole public consultation to discuss the EIA was held on Thursday October 25 2012 and did not allow for a full and proper venting of community concerns, nor did it facilitate responses to critical questions impacting the indigenous communities.
17. The consultation was scheduled during the height of the harvest season so the MLA and SATIIM requested an extension of the date by two weeks to allow for the informed participation of community members who rely on agriculture for their livelihoods. This request was denied. At the meeting, after a 2 hour presentation by the company, the company imposed a rule giving each respondent only one minute to speak. Gregory Ch'oc, the Executive Director of SATIIM was forcibly removed from the meeting and prevented from presenting the communities' concerns. The traditional manner of beginning these consultations was also denied, as the four elders chosen by the communities were not allowed to give their spiritual invocation. This directly violates rights set out in UNDRIP (14, 15, 34).

### **III. Follow-up to 2009 UPR Recommendations**

*Recommendation: Redouble its efforts in favor of the respect of the rights of indigenous peoples, in line with the provisions of the United Nations Declaration on the Rights of Indigenous Peoples. [Mexico] Paragraph 67(35)*

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<sup>15</sup> *Maya Leaders Alliance, Toledo Alcaldes Association and 23 villages v. AG Belize & Minister of Natural Resource*, Civil Appeal No. 27 of 2010.

<sup>16</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>; "Maya win historic case against GOB" Love FM, June 28, 2010 available at: <http://www.lovefm.com/ndisplay.php?nid=12254&fromsrch=1>.

*Recommendation: Protect Mayan customary property rights in accordance with Mayan customary laws and land tenure practices in consultation with affected Mayan people of the whole Toledo district. [Slovenia] Paragraph 68(9)*

18. In disregard of Slovenia's recommendation and the requirements of UNDRIP Articles 26-28, Belize has failed to protect Mayan customary rights by neglecting to delimit, demarcate and title Maya customary land and to enact legislation that would protect these rights.
19. Despite accepting Mexico's recommendation to respect the rights of Indigenous Peoples in line with the provisions of UNDRIP Belize continues to violate the rights of the Maya to "free and informed consent [regarding] any project affecting their lands or territories" (Article 32) and to "consultation and cooperation" (Article 38).
20. The government has made no administrative or legislative attempts to acknowledge Maya rights to consultation and cooperation.<sup>17</sup> On the contrary, it has repeatedly neglected to include the Maya in important decisions and ignored their opposition to projects affecting their lands. In violation of its duties under the UNDRIP, the government of Belize has granted leases and extraction permits for logging, oil exploration and road construction to third parties on Maya lands without the permission or knowledge of the Maya.

#### Oil Exploration and Exploitation

21. Belize failed to obtain free prior and informed consent before allowing U.S. Capital Energy to proceed with oil exploration and drilling on Maya lands, even after the 2004 IACHR decision, the 2010 Supreme Court injunction and the recommendations from the 2009 UPR. Additionally, Belize's *Petroleum Act* requires oil companies to obtain the consent of landowners and lawful occupiers before entering their lands for exploration and extraction activities, which has been similarly ignored.<sup>18</sup>
22. The Minister of Natural Resources issued permits to U.S. Capital in March 2010 and 2011 allowing the company to engage in petroleum exploration and extraction activities in the lands of four Maya villages, violating both injunctions.
23. In mid-October 2011, U.S. Capital Energy began cutting seismic testing lines in lands belonging to Sunday Wood village within the STNP, acting under a permit issued in March 2011,<sup>19</sup> in clear violation of the injunction. Neither SATIIM nor the villages were advised that a permit had been issued.

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<sup>17</sup> UNDRIP Article 38 recognizes indigenous rights to "consultation and cooperation."

<sup>18</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 to contractor to conduct petroleum operations on the land..." [emphasis added] The *Petroleum Act* is available online at [222.belizelaw.org/lawadmin/index2.html](http://222.belizelaw.org/lawadmin/index2.html)

<sup>19</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 (on file with author).

24. In 2012 seismic survey lines were cut in village lands of Crique Sarco, Corazon and Sunday Wood, all beyond the boundaries of the STNP, and thus of the permit. The company also attempted to open lines in Conejo village lands from the permit, despite the specific exclusion of the village from the permit, but villagers prevented them from continuing.
25. In the summer of 2011, residents of Medina Bank, a Maya village protected by the 2010 injunction, learned that Treaty Energy Corporation will commence drilling there as soon as equipment is ready. The village has not been formally notified of these plans or asked for their consent.
26. On October 7, 2012, U.S. Capital published a notice that its Environmental Impact Assessment in relation to exploratory drilling on Maya lands was available online. However, the EIA was a 300-page document written in technical English, which must be translated for the Mopan and Q'eqchi'-speaking Maya people. Additionally, very few community members have access to computers to view online documents. Finally, Maya customary decision-making requires information to be delivered orally.<sup>20</sup>
27. A single consultation meeting was scheduled for October 25, 2012 in the Maya village of Sunday Wood. SATHIM asked the government to reschedule the consultation meeting to November 22 to provide sufficient time to translate and disseminate the document.<sup>21</sup> The government rejected the request, effectively excluding the Maya people from meaningful participation.<sup>22</sup> SATHIM attempted to participate in the October 25<sup>th</sup> meeting. However, U.S. Capital restricted comments to one minute per person and forcibly removed SATHIM's Greg Cho'oc when he attempted to speak longer.<sup>23</sup>
28. On October 23, 2012, the MLA and TAA sent their position statement and consultation framework to the Prime Minister and multiple government Ministries, urging compliance with the injunctions and consultation with the Maya.<sup>24</sup> The government's reply did not address these issues but instead offered a benefit-sharing agreement that the MLA and TAA consider to be inadequate.
29. Communications between the government of the Belize and the Maya organizations are on-going but the MLA holds little hope for a positive response without further pressure. Despite the court's injunctions, Prime Minister Barrow identified the Toledo District as

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<sup>20</sup> "SATHIM wants postponement of EIA community meeting; DOE says no." Channel 5 News (October 19, 2012), available at: <http://edition.channel5belize.com/archives/77336>

<sup>21</sup> Ltr from Martin Alegria, Chief Environmental Officer, Department of the Environment, to Gregory Ch'oc, Executive Director, SATHIM (misspelled Ch'co) Oct. 16, 2012.

<sup>22</sup> Ltr from Gregory Ch'oc to Martin Alegria, Oct. 22, 2012.

<sup>23</sup> "SATHIM's Greg Ch'oc removed from mic during US Capital Consultation." Channel 5 News (October 26, 2012), available at: <http://edition.channel5belize.com/archives/77602>.

<sup>24</sup> Ltr from the MLA and TAA to the Attorney General and Minister of Natural Resources, copied to Office of the Prime Minister; Attorney General; Minister of Energy; Minister of Finance and Economic Development; Minister of Environment; and Minister of Forestry, Oct. 18, 2012 including Position Paper and Consultation Framework.

having the highest potential for oil extraction and stated that drilling will occur in the STNP.<sup>25</sup>

30. On February 22, 2013, the Minister of Forestry, Lisel Alamilla, advised the MLA and TAA that the government was not in a position to discuss or negotiate Maya customary land tenure.
31. Most recently, there have been allegations that U.S. Capital has tried to bribe the traditional leaders (“alcaldes”).<sup>26</sup> Multiple alcaldes reported that they were offered money, along with a message to vote for Domingo She, a pro-oil candidate, as president of the TAA.
32. The Maya people are preparing domestic court action in response to the oil issue but as Belize continues to violate its own domestic court orders, international pressure is vital to encourage compliance.

### Illegal Logging Activities

33. The 2010 *Re Maya Land Rights II* judgment confirmed that Maya village lands were not national lands. Despite the court’s injunction, logging permits were issued to third parties in September and November 2011 in relation to Maya lands without consultation or consent.
34. In 2011, according to the government’s own statistics, 7 times more Rosewood timber was logged in Toledo than was permitted by the Forestry Department. Maya village leaders confirmed that vast quantities of timber were illegally removed from their land.<sup>27</sup>
35. The government initially responded to the illegal forestry with inaction, permitting the timber to be transported and exported without requiring proof that it was extracted with the Maya’s consent.
36. In March 2012 the Ministry of Forestry, Fisheries and Sustainable Development issued an indefinite moratorium on the harvesting and exportation of Rosewood, after receiving complaints made from Maya leaders.<sup>28</sup> However illegal logging has continued.

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<sup>25</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>26</sup> “Campaign Update: Oil Company Attempts Bribery, Corruption of Traditional Leaders,” *Cultural Survival* (February 14, 2013), available at: <http://www.culturalsurvival.org/news/campaign-update-belize-oil-company-attempts-bribery-corruption-traditional-leaders>

<sup>27</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,” Aug. 10, 2011.

<sup>28</sup> Robin Oisin Llewellyn, “Belize enacts moratorium on rosewood,” *Monga Bay* (March 20, 2012), available at <http://news.mongabay.com/2012/0319->

37. In January 2013, residents of Golden Stream apprehended a former licensee trying to smuggle \$400,000 USD of Rosewood from the Maya village. However, when the villagers reported the man to the Minister of Forestry, the Minister burned the logs rather than returning the wood to the village alcalde.<sup>29</sup>
38. In November 2012, logging concession was granted to Hilmar Alamilla on Golden Stream village lands without their informed consent. Even after repeated requests by alcalde Alfonso Cal, the Forest Department to date has not given the village a copy of the concession. The Minister of Forestry cancelled the concession in January 2013 after villager confiscate piles of Rosewood that were illegally harvested.
39. In February 2013, village leaders of Crique Sarco have reported to the MLA that a logging concession was granted on their village lands without their informed consent. They only found out when the businessman informed villagers of his concession, showing a paper that he claims as his license. Similar to the experience of the Golden Stream, the Minister of Forestry when asked about the concession denied any knowledge of such license being issued.

#### Road Construction

40. The government has been constructing a paved road through multiple Maya villages without consultation or consent. This road will run to the Belize-Guatemala border and significantly increase traffic through village lands. Experiences in Belize and a number of other countries have demonstrated that road improvements lead to increased demand for land along the roads by third parties. Without official confirmation of the village's customary title, the road construction poses a greater risk that these villages will lose control of their lands.

*Recommendation: Investigate duly and promptly allegations of misconduct, abuse and violence by public agents and take adequate action against those responsible for such crimes (Italy; 67(31))*

41. Belize accepted Italy's recommendation amongst others that "shared[d] the support" of the government. However, in the context of Maya land rights to Sarstoon-Temash National Park, there have been numerous examples of misconduct by public agents in response to Maya assertion of communal property rights.
42. In April 2011, village leaders identified three individuals as responsible parties for unauthorized logging in the village of Santa Ana. They admitted to logging on behalf of Mr. Samuel Edwards, a non-Maya. 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 that he held a

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llewellyn\_moratorium\_rosewood.html?utm\_campaign=General+news&utm\_medium=Twitter&utm\_source=SNS.analytics

<sup>29</sup> Karina Berg, "Rosewood burning: a symbolic sacrifice to stop the destruction," (Jan. 22, 2013), FAUNA AND FLORA INTERNATIONAL, available at: <http://www.fauna-flora.org/news/rosewood-burning-a-symbolic-sacrifice-to-stop-the-destruction/>

lease to the lands in question. The police prevented the men from signing their written statements, escorted them from the village and encouraged them (unsuccessfully) to sue the alcalde for false imprisonment.

43. The alcalde of Golden Stream and his villagers experienced similar treatment at the hands of 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, but the lease had been 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. Williams' logging activities.
44. In October 2011, San Marcos leaders became aware of illegally-cut timber in their village lands. The alcalde and 56 villagers confiscated the rosewood timber and carried it to the community center. Three days later, two Forest officers and two village council members from a neighboring non-Maya village, arrived in San Marcos and ordered the alcalde to relinquish the confiscated rosewood. They refused, explaining that the logs were illegally harvested. That evening, four unidentified individuals arrived at the alcalde's house, calling out orders to release the confiscated logs. Although none of them were in uniform, the men later identified themselves as police officers.<sup>30</sup> One of the officers flashed a handgun and primed it, causing the villagers to disperse. The vehicle then left. A few days later, Forest officers and a Yemeri Grove leader returned and demanded the release of the timber. In the face of such pressure, the alcalde released the logs. A complaint has been made to the police concerning the incident, but no action has been taken, to the best of our knowledge.
45. 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.

#### IV. Positive Developments

46. In August 2009, the Ministry of Labour, Local Government and Rural Development announced a National Policy on Local Governance in Belize, funded by the United Nations Development Program. This initiative involved developing and implementing a new *Alcalde Act* and a Village Boundaries Demarcation law (which foresaw the demarcation of 33% of the villages in Belize by the end of 2010).<sup>31</sup> These actions would be in line with implementing the IACHR and Supreme Court decisions and recommendations. The governments 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 "recognizing and respecting the rights of indigenous peoples."<sup>32</sup>

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<sup>30</sup> Three of the individuals were identified as Harold Usher (an officer currently suspended from active duty and facing charges related to drug trafficking), Arden Edwards, and Jerry Usher (an active duty police officer and resident of Yemeri Grove village).

<sup>31</sup> National Policy on Local Governance in Belize, Ministry of Labour, Local Government and Rural Development, (Government of Belize, Belmopan) August 2009 (on file with author).

<sup>32</sup> *Id.* at p. 4, 8, and 10.

47. The *Alcalde Jurisdiction Bill* drafted by the government in January 2010 contained no references to Maya customary title, nor did it refer to the powers and jurisdiction of the alcaldes. The draft *Alcaldes Jurisdiction Act* developed by the alcaldes, at their own expense, included specific reference to customary title and Maya customary law. This draft was presented to the government in the summer of 2011 and no response has been received to date.
48. Without formal recognition of their customary title, Maya farmers have been forced to protect their claim to land by leasing it from the government. Additionally, the government leases land in rectangular blocks of specific acreage, whereas Maya customary tenure distributes land in relation to natural boundaries and according to the farmer's ability to work it. These systems often grant conflicting rights and have caused conflicts among villagers.
49. The proposed *Alcalde Act* has the potential to go a long way toward recognizing the rights of the indigenous peoples of Belize, however, there has been no further response to the draft from the government, nor has there been any progress in advancing the new *Alcalde Act* into law. Also, there has been no draft of a new Village Boundaries Demarcation law circulated.

## V. Maya Engagement of International Human Rights Mechanisms

50. The Maya people have pursued many different approaches to assert rights to their lands and resources. As previously mentioned the Inter-American Commission on Human Rights issued a decision in 2004. The Commission is convening a working meeting to discuss compliance with the decisions at its next period of sessions in March 2013.
51. In August 2012, the MLA participated in the country review of Belize in the absence of a state report and to update the Committee on their 13 October 2006 urgent action request. The Committee recently issued its Concluding Observations which included recommendations that Belize:

*Recognise the rights of Maya indigenous people, in particular of the Toledo district, to their traditional lands, and stop granting leases and oil concessions without obtaining the prior, free and informed consent of Maya people, in full compliance with the ruling of the Supreme Court and the recommendations of the Inter-American Commission.*<sup>33</sup>

*Take necessary steps to combat and punish incitement to racial discrimination and hatred against some ethnic groups (Mesizo and Maya) as well as dissemination of ideas based on racial superiority.*<sup>34</sup>

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<sup>33</sup> Committee on the Elimination of Racial Discrimination, "Consideration of reports submitted by States parties under article 9 of the convention: Concluding observations of the Committee on the Elimination of Racial Discrimination adopted under the review procedure BELIZE", advanced unedited version, Aug. 29, 2012, CERD/C/BLZ/CO/1, at para. 10.

<sup>34</sup> *Id.* at para. 9.

*Take concrete steps, including special measures, to guarantee the enjoyment by Maya and some people of African descent access to the labour market, housing and healthcare, and to combat the poverty they face. The State party should develop bilingual intercultural education to favour the integration of such ethnic groups.*<sup>35</sup>

52. The Committee has sent numerous letters to Belize under the urgent action and early warning procedure on March 9, 2007; August 24, 2007; March 7, 2008, and March 9, 2012.<sup>36</sup>
53. The MLA contributed to a joint shadow report to the Human Rights Committee in relation to Belize's compliance with the International Covenant on Civil and Political Rights. An MLA representative is attending the country review of Belize in March 2013.
54. In a March 2007 report, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people expressed concern for the situation and stated that the constitutional protections for property in Belize should apply to indigenous customary rights. The government of Belize responded that "the more 'educated and enlightened' sections of the Maya communities now prefer individual property rights in any part of the country rather than remaining confined to the Toledo District."<sup>37</sup> In late 2012, the MLA submitted an urgent appeal to the Special Rapporteur, informing him of the ongoing violations and urging him to make a site visit.

## **VI. International Human Rights Commitments of Belize**

55. Belize is a signatory to a number of human rights treaties including the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Elimination of All Forms of Racial Discrimination. However, Belize has not signed any of the optional protocols to these human rights treaties, which could go a long way to enforcing the rights of the indigenous peoples of Belize. Belize has signed but not ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) which the Working Group recommended during the first UPR cycle:

*Ratify the International Covenant on Economic, Social and Cultural Rights (ICESCR) (Turkey) which has been signed but not ratified (Argentina).*

*Accede to the ICESCR in a timely manner as it was signed September 2000 (Japan).*

56. Also, Belize has upheld its reservation to the CERD based on article 14 which allows:

*A State Party may at any time declare that it recognizes the competence of the Committee to receive and consider communications from individuals or groups of individuals within its*

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<sup>35</sup> *Id.* at para. 11.

<sup>36</sup> See Ltrs from United Nations Committee on the Elimination of Racial Discrimination to Government of Belize, March 9, 2007; August 24, 2007; March 7, 2008, and March 9, 2012 available at: <http://www2.ohchr.org/english/bodies/cerd/early-warning.htm>

<sup>37</sup> Human Rights Council, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Rodolfo Stavenhagen, A/HRC/4/32/Add.1, March 19, 2007 at para. 24.

*jurisdiction claiming to be victims of a violation by that State Party of any of the rights set forth in this Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.*

57. Belize currently has no open invitations extended to any thematic special procedures mechanisms of the United Nations human rights bodies. By extending a standing invitation States announce that they will always accept requests to visit from all special procedures.

*A State Party may at any time declare that it recognizes the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by that State Party of any of the rights set forth in this Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.*

58. Belize has neglected writing and submitting reports to relevant treaty bodies. The Human Rights Committee has not received a State report from Belize since 1997 and the CERD has not received a report from Belize since 2002.

## **VII. Recommendations**

59. We respectfully request that the UPR Working Group and the Human Rights Council urge the Government of Belize to:
- i.** Implement the decisions by the Supreme Court of Belize to develop the legislative, administrative, or other measures necessary to create an effective mechanism to identify and protect Maya customary property rights in accordance with Maya customary laws and land tenure practices, and in consultation with the affected Maya people.
  - ii.** Implement the decisions by the Supreme Court of Belize by ceasing and abstaining from any acts that might lead the agents of the government itself, or third parties acting with its acquiescence or its tolerance, to affect the existence, value, use or enjoyment of the property located in the geographic area occupied and used by the Maya people of Toledo, unless such acts are pursuant to their informed consent and in compliance with the safeguards of the Belize Constitution.
  - iii.** Cease its efforts to overturn domestic judicial recognition of Maya rights of land and resources.
  - iv.** Sign and Ratify the International Labor Organization's *Convention concerning Indigenous and Tribal Peoples in Independent Countries* (ILO 169).
  - v.** Implement the *United Nations Declaration on the Rights of Indigenous Peoples* into national legislation.
  - vi.** Respect national law by enforcing the *Petroleum Act*, requiring companies to obtain consent from landowners and lawful occupiers.

- vii. Legislate the Supreme Court decision of 18<sup>th</sup> October 2007 *Maya Villages of Conejo and Santa Cruz Vs. The Attorney General and the Minister of Natural Resources and Environment*, and of 28<sup>th</sup> June 2010 *The Maya Leaders Alliance and the Toledo Alcaldes et al v The Attorney General of Belize et al and Francis Johnston et al*, Both of which established the Maya Indigenous Peoples rights to land and customary property rights.
- viii. Implement into national legislation, the Inter-American Commission of Human Rights recommendations of 2004 in *Maya Indigenous Communities of the Toledo District vs. Belize*.
- ix. Advance the proposed *Alcalde Act* into national legislation, and develop a draft for the Village Boundaries Demarcation law and also advance this into national legislation.
- x. Ratify the ICESCR, and sign optional protocols to both ICCPR and ICESCR. Withdraw reservation of Article 14 of ICERD.
- xi. Extend invitation to the United Nations Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, as well as all thematic special mechanisms.
- xii. Submit all reports to relevant treaty bodies in a timely manner.
- xiii. Adhere to recommendation made by Slovenia and Mexico during the first round of the UPR cycle in 2009.

## VIII. List of Appendices

1. Ch'oc, Gregory. "Ltr to Mr. Alegria." *SATTIM*, October 16, 2012.
2. Ltr from Martin Alegria, Chief Environmental Officer, Department of the Environment, to Gregory Ch'oc, Executive Director, SATTIM (misspelled Ch'co) Oct. 16, 2012.
3. Ltr from the MLA and TAA to the Attorney General and Minister of Natural Resources, copied to Office of the Prime Minister; Attorney General; Minister of Energy; Minister of Finance and Economic Development; Minister of Environment; and Minister of Forestry; Oct. 18, 2012 including Position Paper and Consultation Framework.