

MAYA LEADERS ALLIANCE – UPDATE REPORT TO THE HUMAN RIGHTS COMMITTEE OF THE ICCPR FOR THE 124TH SESSION REVIEW OF BELIZE

07 September 2018

I. Executive Summary

The Maya Leaders Alliance (“MLA”) welcome the opportunity to contribute to the Human Rights Committee of the International Covenant on Civil and Political Rights (ICCPR) review of Belize at its upcoming 124th Session. In September 2017, Belize submitted an Initial Report pursuant to Article 40, which obligates that State Parties subject to the ICCPR submit reports on the “measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights.”¹ The initial report in relation to Article 27 provides that the Government of Belize (“GOB”) appointed the Toledo Land Rights Commission (the “Commission”) to implement the Consent Order of the Caribbean Court of Justice (“CCJ”)², and that the GOB appoints Alcaldes every two years.

In June 2018, the Human Rights Committee provided a List of Issues in response to the Initial Report of Belize. Pertinent to Article 27, the Committee identified the following issues:

1. Reports of insufficient or no consultation with Maya indigenous peoples when oil exploration licenses are issued;
2. Measures taken to respect and protect the rights of Maya indigenous peoples;
3. Information on the progress of implementing the Consent Order of the Caribbean Court of Justice and the development of a dispute resolution mechanism;
4. Steps that have been taken to ensure meaningful consultation with indigenous communities in the process of implementing the Consent Order.³

Since the Human Right Committee’s at its 107th Session in March 2013 issued its Concluding Observation⁴ on Belize in the absences of a report the government of Belize has failed to protect the rights of the Maya peoples by permitting acts by government agents and third parties (acting with the government’s acquiescence or tolerance), to affect the existence, value, use, or enjoyment of the land and other resources belonging to the Maya peoples, without the free, prior, and informed consent of the affected Maya communities. These activities include resource extraction, demolition of sacred sites, construction of buildings, logging, and road construction. Despite orders from its own Supreme Court and the Caribbean Court of Justice to do so, the government of Belize has failed to delimit, differentiate, and title the Maya territory, or to meaningfully consult with Maya peoples to protect Maya land rights. The government’s failures have resulted in the violation of the Maya peoples’ rights to be free from discrimination, rights to self-determination, and rights to property.

¹ United Nations General Assembly, *International Covenant on Civil and Political Rights*, Art. 40, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171.

² Consent Order, CCJ Appeal No 2 of 2014 (Caribbean Ct. of Just. 2015) para. 3.

³ United Nations Human Rights Committee, *International Covenant on Civil and Political Rights*, List of Issues Report, June 2018.

⁴ CCPR/C/BLZ/CO/1

II. Background

1. Belize is a relatively new country with a diverse population. When it became independent from Great Britain in 1981 it adopted a constitution that includes ideals of democracy and human rights among its foundational principles. It has a small, predominantly English-speaking population of roughly 360,000, of which about 40,000 are Maya. The Maya peoples primarily inhabit the southern part of Belize, and are the dominant group in the Toledo District of southern Belize.
2. Belize is a party to the International Covenant on Civil and Political Rights (“ICCPR”), with ratification in 1996; party to the International Covenant on Economic, Social and Cultural Rights (“ICESCR”), with ratification in 2015; party to the International Convention on the Elimination of All Forms of Racial Discrimination (“ICERD”), with ratification in 2001; and has expressed its support for both the Universal Declaration of Human Rights (“UDHR”) and the United Nations Declaration on the Rights of Indigenous Peoples (“UNDRIP”).
3. Despite its young age, Belize has a substantial history of adversely affecting the Maya peoples’ land and resources without their free, prior, and informed consent. In 1994 the government of Belize unilaterally designated a significant portion of Maya ancestral land as a national park.⁵ In subsequent years, the government of Belize granted at least seventeen logging concessions on lands totaling approximately 480,000 acres in the Toledo District.⁶ During the same period, the government granted oil exploration concessions in the area to AB Energy, Inc., a company based in the United States.⁷ Maya organizations filed a lawsuit in the Supreme Court of Belize in late 1997 in an attempt to enjoin the logging and oil concessions, which ultimately proved fruitless.
4. In 2001 the government of Belize granted exclusive rights to conduct oil exploration within a twelve-square-mile area of the national park to U.S. Capital Energy Belize Ltd. (“U.S. Capital”).⁸ Again, these oil concessions were granted without the free, prior, and informed consent of the Maya peoples.
5. In response to the ongoing oil and logging concessions and the failure to achieve redress in the national court system, the affected Maya communities brought a petition before the Inter-American Commission on Human Rights (“IACHR”), asserting violations of the American Declaration on the Rights and Duties of Man. On 12 October 2004, the IACHR issued a decision recommending that Belize delimit, demarcate, and title the traditional lands of the Maya peoples of the Toledo district.⁹ Moreover, the IACHR recommended

⁵ Under Belize’s *National Parks System Act* (available at belizelaw.org), the declaration of a National Park has no effect on existing property rights.

⁶ S. James Anaya, *The Maya Petition to the Inter-American Commission on Human Rights: Indigenous Land and Resource Rights, and the Conflict over Logging and Oil in Southern Belize*, in *Giving Meaning to Economic, Social, and Cultural Rights*, 180–211 (Isfahan Merali and Valerie Oosterveld eds., 2001).

⁷ *Id.*

⁸ U.S. Capital Energy Belize Ltd. Production Sharing Agreement, January 22, 2001 (on file with the author).

⁹ *Case of Maya Indigenous Communities of Toledo v. Belize*, Case 12.053, Inter-Am. C.H.R. Report No. 40/04 (2004) (hereinafter “Maya Communities”).

that Belize abstain from any acts that might lead the agents of the state, or third parties acting with its acquiescence or its tolerance, to affect the existence, value, use, or enjoyment of the property located in traditional Maya territory.

6. 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. In October of 2007 the Supreme Court of Belize held that the government of Belize is obligated, under the constitutional rights to property, non-discrimination, life, liberty, security of the person, and protection of the law, to respect and protect Maya land rights in the Toledo District of southern Belize.¹⁰ In its decision, the Supreme Court of Belize became the first national high court to cite the United Nations Declaration on the Rights of Indigenous Peoples (“UNDRIP”). The court acknowledged that the UNDRIP was a nonbinding instrument, but that “where these resolutions or Declarations contain principles of general international law . . . states are not expected to disregard them.”¹¹
7. In a subsequent action, filed in 2008 on behalf of the 36 Maya villages that were not parties to the 2007 case, the Supreme Court again held in favor of the Maya villages collectively. This 2010 judgment was appealed to the highest court in the Belize judicial system, the Caribbean Court of Justice (“CCJ”). After contesting the assertion of Maya land rights in prior lawsuits, the government reversed its position before the CCJ and came to an agreement that was the basis for a judgment by consent. Accompanying the 22 April 2015 Consent Order,¹² was a written commitment signed by counsel for the government of Belize that defines the nature of the rights affirmed and sets out a schedule of dates for the demarcation process.¹³
8. Closely tracking the conclusions and recommendations of the IACHR, the CCJ judgment affirms that the Maya Indigenous Peoples of southern Belize have rights to the lands they have customarily used and occupied, rights which constitute property within the meaning of the Belize Constitution and are protected from discrimination. The CCJ order further requires the Government to identify and protect Maya property, and other rights arising from customary land tenure and abstain from interference with these rights if Maya consent has not been granted through a process of meaningful consultation.
9. The government of Belize has continued to disregard its duty to protect the rights of the Maya peoples by permitting acts by government agents and third parties (acting with the government’s acquiescence or tolerance), to affect the existence, value, use, or enjoyment of the land and other resources belonging to the Maya peoples, without the free, prior, and informed consent of the affected Maya villagers. These activities, including resource extraction, demolition of sacred sites, construction of a building, logging, and road construction, continue despite the recommendations of the IACHR, the judicial decisions of the Supreme Court of Belize, and the CCJ Consent Order.

¹⁰ *Aurelio Cal v. Belize*, Supreme Court of Belize (Claims No. 171 and 172 of 2007) (Oct. 18, 2007).

¹¹ *Id.* at para. 131.

¹² *Id.*

¹³ Statement of GOB’s Commitment to Advance the Undertakings Contained in the Judgment in the CCJ Appeal No. 2 of 2014 (on file with the author).

III. Continuing Rights Violations

Discrimination

Denial of Effective Remedy

ICCPR art. 2(3), ICERD art. 6, UDHR art. 8, and UNDRIP art. 40

10. The government of Belize, by failing to comply with the orders from its own courts and the CCJ, deprive the Maya peoples of the right to access to justice as they are obligated to do by the International Covenant on Civil and Political Rights (“ICCPR”), the International Covenant on the Elimination of All Forms of Racial Discrimination (“ICERD”), and as expressed in the Universal Declaration on Human Rights (“UHDR”), and the United Nations Declaration on the Rights of Indigenous Peoples (“UNDRIP”).
11. Both the 2007 and 2010 Supreme Court decisions and the CCJ judgment closely track the conclusions and recommendations of the IACHR, confirming that the Maya Indigenous Peoples of southern Belize have rights to the lands they have customarily used and occupied, rights which constitute property within the meaning of the Belize Constitution and are protected from discrimination. The CCJ order further requires the government to identify and protect Maya property and other rights arising from customary land tenure and abstain from interference with these rights if Maya consent has not been granted through a process of meaningful consultation.
12. Three years post order, there has been no progress on behalf of the government of Belize to develop the legislative, administrative, or other measures necessary to delimit, demarcate, title, or otherwise clarify and protect Maya land.
13. In January 2016, the government established the Toledo Maya Land Rights Commission (“TMLR Commission”) under the authority of the Belize Attorney General as the government’s mechanism to implement the CCJ Consent Order. The TMLR Commission, chaired by former Minister of Forestry, Lisel Alamilla, was tasked with developing a draft implementation plan by 30 June 2016. The plan has not been completed.
14. Since its constitution, the TMLR Commission has met with the MLA, the Maya peoples’ duly elected representative, on several occasions. However, these meetings are severely handicapped as the TMLR Commission has taken the view that it is for the government alone to determine the scope of the work to be done and the timeline to implement the Consent Order and, in accordance with that view, with whom they are obligated to consult. The TMLR Commission even stated in a recent CCJ Hearing of 23 October 2017 that it does not see the demarcation and documentation process as being within its mandate of work, and it does not expect the development of such a process to occur for several more years.

15. On 19 February 2018 the CCJ expressed its concern that the TMLR Commission was not consulting with the MLA/TAA on the implementation process. The TMLR Commission submitted to the court that they will meet twice with the MLA/TAA before 9 March 2018. The TMLR Commission did not fulfilled its undertaking to the highest court of Belize.
16. Furthermore, in its Consent Order, the CCJ awarded BZ\$300,000 as a remedy for violation of the Maya peoples' constitutional rights. Instead of using the awarded funds to support the participation of the Maya people in the implementation process, the government has asserted that the entire award was properly spent in establishing the TMLR Commission and the funding of its operations. According to the TMLR Commission's own financial records¹⁴ these operations have been primarily administrative, and the funds that have been spent toward meeting with villagers were not facilitative of meaningful consultation with the Maya peoples' chosen representatives.
17. Most of the meetings that have been funded by the damages award have been between the TMLR Commission and a combination of Maya and non-Maya individuals and groups, or with solely non-Maya groups and organizations. To the best of the MLA's knowledge, only four meetings have been held exclusively with Maya villagers or representatives. Ultimately, the majority of funds intended to remedy violations of Maya peoples' rights have been expended in seeking input from non-Maya entities who have no interest in those rights and who may wish to minimize or ignore those rights. Furthermore, the Toledo Alcaldes Association ("TAA"), a body composed of the collective traditional village leaders, and several individual Alcaldes were ejected from one such meeting, contrary to the court directive of undertaking good faith consultation.
18. The TAA's Steering Committee, created to represent the Maya peoples in the consultation process and made up of mostly Maya subsistence farmers from the villages, have not been offered any per diems or travel allowances to facilitate their participation in the consultations. No funds have been provided to the Maya peoples' representatives to facilitate their ability to prepare for and meaningfully participate in meetings; all Maya peoples' participation thus far has been funded by themselves, including the funding of a mutually agreed upon project to translate the CCJ Consent Order and Judgment into the Maya languages.
19. By failing to comply with court orders from its own Supreme Court and the CCJ, and the recommendations of the IACHR, the government of Belize has denied the Maya peoples the fundamental right of effective remedy, which is a key component of the right of access to justice that is protected under numerous human rights instruments.

Equality Before the Law

**ICCPR arts. 2(1), 26; ICESCR art. 2(2); ICERD arts. 2(1), 5, 6; UDHR art. 7;
UNDRIP art. 2**

¹⁴ Government of Belize Financial Summary, December 1, 2015–September 30, 2016, filed on Jan. 20, 2017 (on file with the author).

20. By failing to protect judicially recognized Maya customary land rights, the government of Belize denies the Maya people equality before the law, despite their obligation to do so under the International Covenant on Economic, Social and Cultural Rights (“ICESCR”), the ICCPR, the ICERD, and as expressed in the UDHR, and the UNDRIP.
21. The CCJ Consent Order mandated that the government of Belize delimit, demarcate, and title or otherwise clarify and protect the territory in which the Maya peoples have a *communal property right*, in accordance with their *customary land use practices*. The government’s failure to comply with court orders, as described above, and their failure to prevent ongoing incursions on Maya lands, as described below, is a form of racial discrimination based on the Maya peoples’ status as Indigenous Persons and the nature of their customary land rights.

Religious and Cultural Harms

ICCPR art. 18(1); UDHR arts. 18, 27(1); UNDRIP arts. 11(1), 12(1), 31(1)

22. The government of Belize’s failure to protect Maya lands has resulted in damage to religious and cultural heritage, and is a form of religious discrimination that contravenes the ICCPR, and is repugnant to the principles expressed in the UDHR, and the UNDRIP.
23. In 2014 an individual named Rupert Myles trespassed upon communal property in the Maya village of Santa Cruz. Despite several eviction notices and attempts by the Maya peoples to stop him, Mr. Myles built a structure within the boundaries of Uxbenká—an ancient Maya temple which is protected by the village of Santa Cruz. Moreover, Mr. Myles bulldozed a driveway connecting the house to the road and burned the surrounding vegetation so that he could farm there. Through these actions, Mr. Myles violated the village’s prohibition against individuals living or building on or near the Uxbenká site.
24. When their own efforts to remove Mr. Myles proved unsuccessful, the Santa Cruz villagers sought help from the Belize Police Department to protect the religious and cultural site. The Belize Police Department refused to assist the affected villagers. Furthermore, the villagers sought help from the National Institute of Culture and History, who ignored their requests for over a year before finally issuing an eviction letter to Mr. Myles.
25. While the structures that Myles built on Uxbenká were eventually removed the damage to the site is permanent. The government of Belize’s failure to protect the Uxbenká archeological site, by acquiescing to Mr. Myles continued trespass—in violation of the original *Maya Land Rights Case* of 2007 and the CCJ Consent Order, as well as its obligations under the Belize Constitution¹⁵—implicates rights to religion and culture protected by numerous human rights instruments.

Self-Determination

Right to Self-Government in Matters Relating to Internal Affairs

¹⁵ CONST. OF BELIZE art. 3 (obligating the government to provide protection for fundamental rights, including collective property rights that derive from Maya traditional land use).

ICCPR arts. 1(1), 1(3); ICESCR art. 1(1), 1(3); UNDRIP arts. 3, 4, 18, 19, 33(2)

26. The government of Belize, by not recognizing the duly elected representatives of the Maya peoples during the court mandated consultation process, has denied the Maya peoples their right to self-determination as protected by the ICCPR, the ICESCR, and in contravention of numerous principles expressed in the UNDRIP.
27. Since its creation in January 2016, the TMLR Commission has met with the MLA and TAA, the Maya peoples' duly elected representative, only twice in 2016, and twice more in 2017, and a few times in 2018. Of central importance, the TMLR Commission determined the nature and structure of these meetings, and was not receptive to input from the MLA and the TAA. Since the June 2016 meeting, the government has attempted to challenge both the MLA and the TAA's legitimacy as the chosen representative of the Maya peoples.
28. The government of Belize has taken the position that it is for the Attorney General to appoint the Maya peoples' traditional leaders—the Alcaldes—which is fundamentally at odds with the Maya peoples' rights to self-determination, and only serves to undermine the legitimacy of the Maya peoples' chosen representatives. In January 2017 the Attorney General refused to recognize the newly elected traditional leaders of the 39 Maya villages and questioned the legality of the existence of the 39 Maya villages claiming that they were not gazette in law by the government of Belize. The Attorney General withheld the USD 50 monthly stipend of each of the 78 traditional leaders from January 2017 to September 2017. Moreover, the government of Belize has given no regard to the Maya Consultation Framework and has mischaracterized the MLA and the TAA before the CCJ as “gate keepers” between the TMLR Commission and the Maya peoples.¹⁶
29. The parties to the 2007 and 2010 land rights cases were the MLA and the TAA, which is comprised of the traditional Alcaldes of the Maya villages in the Toledo District. The TAA was a party to the original 1997 land rights litigation, it supported the two villages in the 2007 *Re Maya Land Rights* litigation, and it was the main party to the litigation that resulted in the CCJ Consent Order. In response to the government's challenge to the TAA and MLA's standing in the 2008 litigation, the Supreme Court ruled that both organizations were legitimate representative claimants for the collective Toledo District Maya villages.
30. Despite being estopped from claiming that the TAA and the MLA (and by proxy, the Steering Committee chosen by the TAA to represent them in the consultation and implementation process) are not the legitimate representatives of the Maya communities in the Toledo District, the government has openly denigrated their legitimacy and has failed to meaningfully include them in the implementation process. The TMLR Commission has taken the unilateral position that MLA and the TAA are but two groups among many with whom they are obligated to consult, and that the scope of its work and the timeline for implementation are solely the purview of the TMLR Commission.

¹⁶ Government of Belize's Compliance Report to CCJ Appeal NO. 2 of 2014, filed on Jan. 20, 2017 (on file with the author).

31. The TMLR Commission's position is incompatible with both the spirit and the letter of the CCJ Consent Order, as the MLA and the TAA represent the duly appointed leaders of the Maya villages in the Toledo District, elected and chosen per the custom of the Maya peoples. The government has undertaken consultations with individual villages in the Toledo District, without the inclusion or consent of the MLA or TAA, in an effort to undermine their authority as representatives of the Maya peoples in the eyes of the CCJ.
32. By choosing not to recognize, marginalizing and bypassing the Maya peoples' own procedures and representative institutions, the government has failed to conduct good-faith consultation towards implementation of the Consent Order with the Maya peoples, and to respect their right to self-determination, which is protected under numerous human rights instruments.

Property Rights

The Right to use Natural Wealth and Resources

ICCPR art. 47; ICESCR art. 25; UDHR arts. 17, 22; UNDRIP arts. 20(1), 26(1), 32(2), 34, 35

33. The government of Belize's failure to protect the rights of the Maya peoples by permitting acts by government agents and third parties (acting with the government's acquiescence or tolerance), to affect the existence, value, use, or enjoyment of the land and other resources belonging to the Maya people has denied them the right to use their natural wealth and resources, as is protected by the ICCPR, the ICESCR, and expressed in the UDHR and the UNDRIP.
34. The government's delay in the demarcation of Maya lands has led to further trespass upon, and appropriation of, Maya lands. These failures led to two cases filed in the Supreme Court of Belize in 2016 to uphold Maya land rights. The first arose from the government's failure to protect the Uxbenká archeological site in the village of Santa Cruz from trespass, as discussed above, as it was obligated to do under the original *Maya Land Rights Case* of 2007 and the CCJ Consent Order. The second case arose from the government's expropriation of land to build a government highway through the Jalacte village in contravention of applicable laws and the CCJ Consent Order.
35. The government has continued to acquiesce to third party encroachment on Maya lands, which were described in this organization's 2013 submission to the 107th Session of the Human Rights Committee. The government granted permits authorizing the removal of mahogany logs from Golden Stream lands without the consent of the affected Maya village. A new logging permit was signed on 15 May 2015, after the issuance of the Consent Order, and has since been renewed. Moreover, on 8 March 2016, the Ministry of Economic Development, Petroleum, Investment, Trade and Commerce approved a one (1) year extension of an oil concession on Maya territory to US Capital¹⁷. Again, the oil concession was granted without the consent of the affected Maya villages.

¹⁷ Under the legal guidance of Michael Peyrefitte attorney for US Capital

36. At a supervision hearing before the CCJ in January 2016, the government suggested that it would consider creating a forum or mechanism to resolve such issues without resorting to litigation, which is prohibitively expensive for Maya villages. Noting the MLA/TAA's concern over proper consultation the CCJ appointed one of its Justices to facilitate the development of a Reporting and Dispute Resolution Framework. In August 2018 the Attorney General and MLA/TAA agreed to the Reporting and Dispute Resolution Framework, however, the onus is on the Government of Belize to provide the necessary resources for the Framework to become operationalized.
37. As exemplified by the above mentioned Jalacte and Santa Cruz cases, the incursions on, and taking of, Maya village lands have yet to be resolved. The continued illegal logging in Golden Stream and the extension of US Capital's oil concession, without the consent of the affected Maya villages, further demonstrate the government's failure to abstain from acts that affect the existence, value, use, and enjoyment of the property of the Maya people.
38. In addition to its failure to resolve ongoing incursions, since its last ICCPR review in 2013, the government of Belize has engaged in new activities that have affected Maya customary land rights, in contravention of the letter and the spirit of the orders from the Supreme Court and the CCJ.
39. Logging activities in the Dolores village have been undertaken by Jimmy Lazano of the Cayo district in 2016 – 2017 without consent from the affected village. Under the Consent Order, regardless of any lease, permit, grant, or deed conveying a logging concession, the permit holder may no longer exercise the concession without the consent of the village. The village has reported the illicit activity to the Forestry Department, requesting the Department to require Mr. Lazano to cease and desist his activities, but no reply has been forthcoming.
40. Furthermore, in 2018 the Forest Department issued another logging concession to Colin Monsanto in the same area in which Jimmy Lazano had been working, again in contravention of the Consent Order. Dolores Village wrote the Forest Department to cease the logging activities. In response the Forest Department sent a Forester from the Machaca Forest Station in Toledo to hold a meeting with Dolores Village. At the meeting the Forester informed the village leaders that he had a typed letter of consent that the leaders simply need to sign. The village leaders informed the Forester that only the village can grant consent. In response the Forest informed the leaders that the Forest Department does not need written consent from Dolores but merely to inform them. Logging activities ensued despite the cries of the villagers to cease.
41. The government has failed on two separate occasions to intervene on behalf of Maya villagers in Jalacte in their attempts to evict trespassers from their land. The first instance involves Kent Chun, who has taken residency and built on property within the Jalacte village, without the consent of the village, asserting that he has the right, as a Belizean, to reside anywhere he chooses. The village first sent Mr. Chun a cease and desist letter on 15 September 2016 and has yet to receive assistance from the government in removing Mr. Chun, despite requesting assistance directly from the Attorney General, Michael Peyrefitte.

The second instance of trespass on Jalacte lands concerns the fencing of lands near Palo Grande without the consent of the village. To date, neither issue has been resolved.

42. In February 2017, officers from the Forestry Department burned Maya agricultural camps and damaged produce and fruit trees in the San Pedro Colombia village, which the Department considered to be illegal. The village takes the position that the land, in the forest reserve, constituted the traditional farming land of the Maya peoples. The village has reached out to the Chief Forest Officer, Wilber Sabido, in an attempt to achieve redress for the affected families, who relied on the farms to make a living. The village leaders requested a meeting with the Department to reach an amicable solution, but no reply has been received. It took the support of the MLA/TAA to go at great lengths to lobby the World Bank¹⁸ in Washington DC, USA for the Forest Department to act and eventually compensated the villagers.
43. Further issues have come to light in recent months, and investigations are ongoing. Maya lands in San Pedro Columbia village are being parceled and sold to Cacao companies from local farmers, without the consent of the village. It is unclear how the purchasing is taking place, but three such incidents have been reported, with Maya Mountain Cacao and Pieni Cacao companies buying or leasing land from private individuals, absent the village's approval. Furthermore, lands in the San Isidro village have been surveyed and sold, under the cover of residence fees, paid by Belizeans living abroad in the U.S., and without the approval of the village.
44. The petitioners have sent letters to the TLMR Commission, the Attorney General, and the Forestry Department advising of such incursions, all of which have been met with silence. It is yet to be seen if these issues will be resolved under the recently agreed Reporting and Dispute Resolution Framework.
45. In 2018 the Honorable Michael Peyrefitte, Attorney General of Belize, and former counsel for US Capital Energy, used Belize military helicopters to fly government counsels from his office and representatives of US Capital Energy to consult with the affected Maya villages. The Attorney General's Office claims that from this one meeting, a few hours, his office got consent signed from the leaders. This notion of acquiring consent is far from fully informed consultation as established under FPIC.
46. The government of Belize continues to engage in harmful acts that undermine the rights of the Maya peoples, including parceling Maya village lands to private individuals, granting development concessions on Maya traditional lands, and ignoring third party incursions on Maya village lands, in contravention to the Maya peoples' rights to property as they are protected under the ICCPR, the ICESCR, and affirmed in the UNDRIP.

Civil and Political Rights

The Right to be Free from Arbitrary Arrest or Detention

¹⁸ There is a World Bank funded project, Key Bio-diversity Project, that included the area of the incident which triggers the social safeguards of the Bank.

ICCPR arts. 9(1), 21; UDHR arts. 3, 9, 20(1); UNDRIP art. 7(1)

47. The government of Belize has purposefully targeted Maya peoples for defending their human rights, subjecting them to unfounded criminal proceedings in order to paralyze or delegitimize their cause, in violation of the Maya peoples' rights to be free from arbitrary arrest and detention, and their right to peaceable assembly and association as protected by the ICCPR, and expressed in the UDHR and the UNDRIP.
48. The problem of the misuse of criminal law by state and non-state actors with the aim to criminalize the work of human rights defenders is a subject of intense interest to human rights proponents, as evidenced by the recent report by the IACHR,¹⁹ and the work of the UN Special Rapporteur on the rights of indigenous peoples, Ms. Victoria Tauli-Corpuz.²⁰ Ms. Tauli-Corpuz is currently engaged in consultation and dialogue with affected groups to prepare a thematic report on the subject of criminalization of human rights defenders, which will be presented this September before the Human Rights Council.
49. In 2015, the village of Santa Cruz held a meeting to discuss options to resolve Mr. Myles' intrusion on the sacred site of Uxbenká, discussed *supra* paras. 27–30. At that meeting, Mr. Myles showed up and threatened the villagers if his structure was removed. Fearing for their safety, the village police arrested Mr. Myles, and requested assistance from the local police. When it became apparent that no help was forthcoming, Mr. Myles was released.
50. Within days, the Belize Police arrested twelve prominent village members, including their traditional leader, and Cristina Coc, a renown indigenous and human rights defender and a key Maya women's rights leader. The Santa Cruz Thirteen, as they would be come to be known, were held in Punta Gorda Police jail house under charges of assault and false imprisonment. After conducting no local investigation, the Attorney General went on national radio on June 25, 2015 and stated the village leaders were wrong for detaining Mr. Myles and rebuked them for preventing any Belizean from living anywhere in Belize, making no mention of Mr. Myles desecration of the Maya sacred site. There have also been threats of violence made against Maya people on national radio, and on 28 June 2015, a vehicle entered the village of Santa Cruz and fired several rounds of ammunition into the air.
51. After nearly a year of traveling from their rural village into Punta Gorda Town, the Santa Cruz Thirteen (as they had come to be known locally) all had their charges dismissed, but not until they were harassed a number of times in person and in the media.

IV. Questions

Given that previous ICCPR review cycle, like other cycles including the UPR, have specifically identified the government of Belize's failure to protect and affirm the Maya peoples' customary

¹⁹ Inter-American Commission on Human Rights, *Criminalization of the Work of Human Rights Defenders*, OEA/Ser.L/V/II.Doc.49/15 (2015), available at <http://www.oas.org/en/iachr/reports/pdfs/criminalizaion2016.pdf>.

²⁰ Report of the Special Rapporteur on the situation of human rights defenders, A/71/281 (2016).

land title, what is preventing the government from engaging in good faith negotiation to delimit, demarcate, and title Maya territory?

The nature of the Toledo Maya Land Rights Commission is such that it is solely government appointed and directed. Has the Government of Belize considered a body that is more balanced in representation and independent of Central Government?

Resolving Indigenous issues is addressing historical wrongs that are complex and resource demanding. Why has the Government of Belize not accepted or sought independent expertise and support from the IACHR, EMRIP, other relevant UN mechanism in the implementation of the CCJ Orders?

The Maya Consultation Framework has been noted as a good practice by expert reports such EMRIP, why does the government of Belize not work with the Maya people to use the framework as a guide to develop a consultation process for the implementation of the court orders that would result in good faith and meaningful consultation?

How has the Government of Belize incorporated the CCJ orders in initiatives that interacts with lands and resources that aims to cover the community lands of the 39 Maya villages such as REDD+, Climate change projects, infrastructure projects?

Every two years the 39 Maya villages of the Toledo District elect their traditional leaders – the Alcaldes- through their long-standing customary practice. This practice of the Maya peoples, their right to self-determination, is protected by the ICCPR, the ICESCR, and in contravention of numerous principles expressed in the UNDRIP. What measures will the Attorney General’s office take to ensure that it does not infringe on the right of the Maya people to their own system of customary governance?

In 2018 the Attorney General’s Office embarked on consultations with affected Maya villages to seek their consent for the renewal of US Capital Energy’s oil exploratory permit. What measures has the Attorney General’s Office taken to ensure that the villages have the technical capacity, information and resources to fully and effectively participate in the consultations? How is Free, Prior and Informed Consent been applied in the consultations?

V. Recommendations

Accordingly, the Maya Leaders Alliance urge the government of Belize to:

- a) clarify the mandate of the Toledo Maya Land Rights Commission so that it can work in partnership with the MLA to adopt meaningful consultation policies, and move more quickly to create an effective method to demarcate and title Maya land;
- b) provide appropriate support and resources for the fully informed participation of the Maya people in the implementation of the CCJ Order and Judgement.

- c) recognize and publicly support the existence and validity of Maya customary rights over lands and resources, in accordance with the report of the Inter-American Commission on Human Rights and the judgments of the Supreme Court of Belize and the Caribbean Court of Justice;
- d) develop, through fully informed consultations with the Maya peoples a joint work plan for the implementation of the CCJ Orders and Judgement including a legal framework to delimitate, demarcate, and title the territory of the Maya peoples of Belize;
- e) refrain from acting, or permitting or tolerating third parties to act, in ways that might affect the existence, value, use, or enjoyment of the property located within the geographic area occupied and used by the Maya peoples, until such time as it has developed a mechanism to delineate, demarcate, and title or otherwise protect Maya lands in the Toledo District; and,
- f) repair the environmental damage resulting from logging and other concessions and leases extended on Maya lands.
- g) Recognize and promote the Maya Peoples customary system of governance – the Alcaldes