

9th February, 2013

Ms. Kate Fox Principi  
Secretary of the Human Rights Committee  
Human Rights Committee Secretariat  
8 -14 Avenue de a Paix  
CH 1211 Geneva 10  
Switzerland

Dear Ms. Principi,

A joint report filed by various Civil Society groups and NGO's (group)  
in response to the International Covenant on Civil and Political Rights, prepared  
In the absence of the initial report of Belize

Please find enclosed the submission of the group dated the 5th of February, 2013 to the United Nations Human Rights Committee for the consideration of the Human Rights committee members at the 107th session to be held in March 2013 in Geneva.

I enclose 20 sets of hard copies of the submission to be distributed to the Human Rights Committee members.

Submitted by United Belize Advocacy Movement, Caleb Orozco

5. The government at this time has no timeline or specific activity to address discriminatory laws in Belize. The government response in the addendum to the Universal Periodic Review of 2009 recommendation points out the government current position,

“While there is no political mandate at this time to amend the relevant legislation, the Government is nonetheless committed to protecting all members of society from discrimination. Indeed protection from discrimination is protected by the Belize Constitution.”

**Scenario One: Education Discrimination- Pray the Gay Away-2006** An updated report was received on 12<sup>th</sup> October, 2012, but the incident happened to Paul Schmit now 25 years old who shared that while he was at Nazarene High School, in 4<sup>th</sup> Form, a student punched him. The student reported to the Principal that he punched Paul Schmit for being a “faggit.” The result was that the principal decided he wanted to see his parent and Paul Schmit begged to have his Aunt Soila go to represent him. He was asked to go to counseling with a Pastor Gordon. Paul said, “he prayed for me to fine GOD. I did two to three sessions and stopped.”

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**Scenario Two: Student suspended- for supporting UniBAM work-2012**

4<sup>th</sup> Form student Amir Gonzalez reported that his school principal suspended him from three days under the guise he used the school name without permission in January. He essentially, produced a you tube video to show that he supported the UniBAM “We are one Launch” of its wristbands. The incident it seems required Yolanda Gongora: Principal; Melissa Andrade – Vice Principal, and Dion Augustus – Assistant Headmaster to be present. He was also sent to counseling service. The report given by Amir Gonzalez can be quoted as saying, “ if you keep advocating the way I did that it could lead to a permanent expulsion.”

### **Scenario Three: Sexual Assault at Kings College a Belize Rural School-2011 report**

The current school climate does not protect gay students from bullying, a report received December 8<sup>th</sup>, 2011 that in 2005 as a 16 year old, he was held down and sexually assaulted at a school called Kings College, the humiliation intensified when the assaulter shared proudly with his peers that the person was raped. Knowing the school hand book said “Homosexual behavior will NOT be tolerated.” The guy got suspended for only 3 days even though he was the adult in the matter. The incident was never reported to the police.

### **Scenario Four: Education discrimination- March, 2011**

Essentially, the principal of technical high school in Orange Walk said to a young man, “**No mek a ketch yo on the school compound because you gay!**” Despite his mom was working at the school as a janitor at the school. Calling his mother Naomi Valcillo and asked” is you son gay? To which Ms. Valcillo replied, ”Yes!”He proceeded to ask if her son gives trouble at home to which she replied “No!” He then made this statement, “**Could you kindly stop your son from bringing lunch to you because I don’t want the girls to turn like him!**” There was no report on the matter.

### **Scenario Five: ITVET Principal discriminatory Remarks and bullying-2010**

Diego Grajalez reported that in 2010 when he was going to ITVET Orange Walk Principal Armando Gomez use to say at student assembly ‘ Ah no want dem thing ya! Wa man suppose to be with wa woman. Dat da how yo wa develop the country!’ Diego also reported the he use to reach late at school to avoid some guys who use to bully him with phrases like, “ no bring dem thing round ya!” He never reported his experience to the principal office about his harassment.

It is the United Belize Advocacy Movement view that there is no political commitment of timeline or specific action to advance any comprehensive anti-discriminatory legislation or to follow or review the current CARICOM anti-discrimination model legislation. The regulatory environment regarding the vilification of Gay, Lesbian, Bisexual and Transgender Citizen’s remains non-existent in practice.

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Submitted by Attorney and human rights activist, Antoinette Moore, past president of the Human Rights Commission of Belize.

**10. The death penalty in Belize may only be imposed on a person convicted of murder. The punishment was mandatory up until 2002. In that year the then highest appeal court for Belize, the Privy Council, ruled in Reyes v the Queen that the mandatory death penalty in Belize was unconstitutional. Thereafter, the penalty has been reserved for only the worst of the worst murderers. In fact, the ultimate and irreversible penalty has rarely been imposed since 2002.**

At the moment, only one person is on death row in Belize and because of the length of time (over 5 years) this person has been on death row, the law will not permit him to be executed. He was sentenced to death before the Reyes case.

**11. The State amended the Constitution at the end of 2011 in the Belize Constitution (Eighth Amendment) Act, 2011 after a great deal of discussion and debate. Besides nationalizing certain utilities, the amendment changed the supremacy clause so that it no longer says that any law inconsistent with the Constitution is void to the degree of the inconsistency. The provision was amended to now say that any law except an amendment to the Constitution is unconstitutional if inconsistent with the constitution.**

**The State's original proposed amendment included amending section seven of the Belize Constitution (the prohibition on torture, cruel, inhuman or degrading treatment or punishment) so that the death sentence could not be considered torture or inhuman or degrading treatment despite what a court might say in this regard. The purpose of the proposed constitutional amendment was to prevent challenges to the death penalty based on section seven of the constitution and to overcome Privy Council cases that had found the implementation of the death penalty in some circumstances constituted torture, cruel, inhuman or degrading punishment. There was significant opposition to the State's overall constitutional amendments and eventually the State did not proceed with this portion of its amendment. The absolute prohibition on torture, cruel, inhuman or degrading treatment or punishment remains in the constitution un-amended.**

Your Organization: Help for Progress is a local, non-governmental organization.

Networks: Member of Regional Network for "Conference on Migration" (RRCM), Human Rights Commission of Belize, ECADERT (Estrategia Centroamericana de Desarrollo Rural Territorial) Consortium of Belize NGOs;

Type of NGO: service provision, advocacy

Country: Belize

## **15. Background and Current Conditions**

Belize acceded to the 1951 Convention related to the Status of Refugees and its 1967 Protocol in 1990. In 1991, a national legislation for refugee protection was enacted that included an Eligibility

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Committee for status determination. Subsequent to the signing of peace accords in the region and after UNHCR reduced its established presence in Belize, in 1998, the Department of Refugees was downsized to a desk within the Immigration Department and the Director of Refugees post was eliminated. Belize's refugee legislation indicates that the Director of Refugees is to the Chair of the Eligibility Committee. With these moves, the Eligibility Committee for status determination became non-operational/inactive and has not been reactivated; the last RSD exercise was done in 1997.

In the mixed migratory flow, the GOB does not have a mechanism for preliminary screening that can identify persons with needs for protection, including vulnerable cases and unaccompanied minors. Undocumented persons who are intercepted, are detained, promptly charged, and generally serve a minimum of three to four months incarceration after detection. Prison visits may identify persons with need for protection who have been sentenced. Judicial procedure required to rescind the detention order/sentence is costly and time consuming.

The other population at greatest risk for denial of the right to seek asylum are the Cuban nationals. A memorandum of understanding between the Governments of Belize and the Republic of Cuba for the return of illegal (without visa to land in Belize) Cuban migrants. This effectively denies the right to request asylum for Cuban nationals.

Persons, who are allowed to land for protection reasons, are denied RSD. Recent government practices that foreshadow upcoming legislation will make it even more difficult for asylum seekers to remain in Belize.

The refugee population in Belize is less than one hundred, of which 45% are women and girls. The majority of the refugees live dispersed in urban and rural areas. Belize does not have refugee camps or settlements.

Female migrants and refugees in the mixed migratory flow are particularly vulnerable to sexual exploitation and other violations of their rights in the border areas. Help for Progress is concerned that the capacity of both governmental and non-governmental organizations needs to be strengthened, in order to identify women and girl migrants in the border regions who require protection, and within this group, to identify those who may be asylum seekers.

HFP recommends:

Recommendation 1: The re-establishment of the Eligibility Committee for Refugee Status Determination, with specific provisions addressing the protection needs of refugee and asylum seeking women and girls.

Recommendation 2: The asylum seekers risk refoulement related to the non-existence of formal asylum system and government's reluctance to consider asylum claims.

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Recommendation 3: Consider immigration reform through modification of legislation that levies charges of stiff fines and imprisonment for traveling with falsified documents and illegal entry. This would speed the movement of extra-regional, in particular, who continue to be incarcerated after their sentences are finished while Government looks for means of durable solutions.

**16. NOPCAN** was founded in January of 1992 in response to the increasing evidence of child maltreatment and other difficult circumstances impacting the Belizean family. NOPCAN works in

synergy with the Convention on the Rights of the Child and the National plan of Action for Children and Adolescents (NPA). Since its inception, NOPCAN has grown to a national organization impacting the six districts of Belize. It pursues its program goals through collaboration with the Government of Belize, other non-governmental organizations and the public and private sectors. NOPCAN's main mission, since its establishment 21 years ago, has been to increase public and professional awareness and understanding of children's rights as laid down in the Convention on the Rights of the Child, and to advocate and campaign for the right of every child to live a life free of all forms of abuse and neglect, including all forms of violence. In 1999, NOPCAN held its first national teachers' conference on the subject of positive discipline. In 2005, it contributed to the UN Global Study on Violence against Children.

NOPCAN seeks to focus its work on preventing child abuse and neglect via general campaigning for public policies that will benefit children, empower parents through parenting education, involve children in the life of the nation through age developmental activities, and mobilize resources through collaboration with the public and private sectors. The provisions of the criminal code which legitimize the use of corporal punishment were removed from the Education Act in May 2011. The CEO of the ministry of Education has informed the author that during the summer months, teachers attend workshops to instruct them about alternative forms of discipline.

Since the law to remove corporal punishment from schools came into effect, NOPCAN has published its strategic plan for the way forward that include:

1. Support for legislation that protects children against all forms of violence and specifically the prohibition of corporal punishment in homes.
2. Creating public awareness of alternatives so as to start the change in social perceptions within cultures across Belize.
3. Training teachers and child care professionals in alternatives to corporal punishment.
4. Providing alternatives to violence through positive parenting & family enhancement activities through a dynamic process that encourages the use of positive methods of child discipline through personal and social education.
5. Mobilizing children across the country so that their voices are heard.
6. Get the University of Belize involved in research, and in identifying alternatives to corporal punishment.
7. Validate parent's right to care for and to be the duty bearers of their children.

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Submitted by Cynthia Pitts, Former Ombudsman 2009-2012 and Co-Chairman of the Belize Coalition for the Human Rights of Persons of African Descent

17. From personal knowledge gained while occupying the post of Ombudsman of Belize during the period 2009-2012 I can say that most of the complaints received at the office were complaints alleging use of excessive force by the Police Department. Up to the end of 2011 the problem was the lack of response from the Department when the Ombudsman office sought to investigate the complaints. As the office was staffed with only the Ombudsman, a legal assistant and a secretary it was difficult to conclude within an acceptable time a complete investigation which clearly established if the force used was excessive or not.

It is true that allegations of use of excessive force against persons who attended the funeral of an alleged gang member were made by a number of persons. There were reports of the allegations in the newspapers and on the radio and TV stations. Interviews of the persons who made the allegations were shown on the TV stations. These persons showed the injuries they had received from police officers in the Gang Suppression Unit. According to residents on the street the Gang Suppression Unit who were in uniform used brute force with no consideration for the elderly, women and children.

No investigation was done regarding the allegations. The Internal Affairs Division (IAD) of the Police Department either did not have any information on the incident or refused to give information. It was more an attitude of "I have nothing to say about that incident". The person heading the Unit presently was not there at the time the allegations were made.

The CEO of the Ministry of Police explained that an investigation would have only been done if the victims had lodged formal complaints with the IAD. This apparently was not done. Out of the 40 plus men that were detained for over 68 hours by police over the weekend only 2 were charged by the police. Their Court cases are presently taking place. They have hired attorneys who are representing them to fight the minor criminal charges that have been brought against them and to sue the Government for the injuries they received.

As far as I have been able to ascertain the Independent Complaints Commission is not functioning. The IAD has been renamed the Professional Standards Bureau; however, there has not been any strengthening of its capacity to enable it to perform adequately. It is still lacking in staff and the Head of the Division or Bureau has to be out in the field away from the office doing her own investigation.

It is recommended that the Police Training Academy include in its curriculum, training on the use of force and firearms by law enforcement officials and also adopt the Code of Conduct for Law Enforcement Officials approved by General Assembly resolution 34/169 of 17 December 1979. Presently the Police Department uses the Police Act to formulate its rules and regulations on the use of force. The Act is outdated and severely lacking in human rights standards.

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Submitted by Attorney and Human Rights activist Antoinette Moore.

**18. As of this writing in late January 2013 there are 1546 persons in the Belize Central Prison, the only prison in the country. Out of this number, 548 are on remand at the Prison in pre-trial detention. The average length of pre-trial detention for a person charged with murder (a non-bailable offence) had been approximately one year until the numbers of murders began increasing about 7 years ago and the remand time started creeping up. Now, persons may spend two to three years awaiting trial. There are cases of individuals being on remand for 4 and 5 years, although this is not the norm, as far as HRCB is aware. No study has been conducted so that comparative numbers may be analysed.**

**There are several cases of juveniles charged with murder who have been on remand for lengthy periods of time by the time they are tried for the crime. HRCB is aware of one case where a boy**

was charged with murder and remanded at age 15 and has spent his 16<sup>th</sup>, 17<sup>th</sup> and now 18<sup>th</sup> birthday awaiting trial and has still not had the preliminary inquiry that must precede his trial. The Director of Public Prosecutions was made aware of this case and is making efforts to determine why this matter is so delayed as well as to remedy the situation.

Juveniles in Belize should be treated in accordance with the Beijing Rules and the CRC which both say, *inter alia*, that matters involving persons under 18 should be handled expeditiously. HRCB recommends that all juveniles who are remanded for murder or other offences for which they are not offered bail, be tried within a year of their arraignment. This time restriction in juvenile cases should be closely monitored by Magistrate and prosecutor for compliance. During the period of remand, the juvenile should be assessed for exposure to violence, educational and social deficits, family background and other issues that may contribute to criminal or violent behaviour. Counselling is currently available but not to the extent that is needed. HRCB further recommends that a counselling program designed specifically for the juveniles be developed and implemented.

HRCB also recommends that there be Legal Aid personnel devoted to juveniles charged with serious offences at the earliest stage of the case. Now, juveniles charged with murder will be assigned a lawyer to represent them at the trial but this usually happens close in time (a month or two) before the trial. So the juvenile is unrepresented and would be disadvantaged in raising any preliminary matters for the year or two or three that he is remanded prior to trial.

Among the adult male population at the Prison, remanded prisoners are separated from convicted prisoners. However, all male juveniles are housed together, remanded and convicted. For females, it is even more concerning since all females are housed together, juvenile and adult, remanded and convicted. This means that adult convicted women are in close quarters in the same section of the Prison facility as a remanded girl. The reason the State would give for this is that there are so few remanded juvenile females that it is financially impractical to have a separate facility for them. HRCB recommends that the State consider and create alternatives to institutionalization for juvenile girls if it cannot remedy this situation otherwise.

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There are jail lock ups in the various districts across the country located in the Police Stations in the district town. These detention centres are known to be unsanitary and inadequate in all respects-locally they are called “piss houses.” These are places where short term detention occurs and where people are held during a trial or other court appearance in the town away from the Central Prison which is located in the Belize District. There are six districts in the country. There are also two populated cayes off the mainland which may only be reached by sea or air. There are lockups in the cayes also.

The allegation that police detain people to intimidate and harass them would be verified by many who have experienced this type of treatment. HRCB has received complaints from persons who are intimidated and harassed by the Police using this method. It would be anecdotal, however, since there has been no study of this particular phenomenon. The Constitution permits the authorities to detain a person for 48 hours in which time an investigation should be conducted beyond what was done to justify the original detention. Under the Constitution, the person should

be charged or released by the end of the 48 hours. There are countless instances in which the police release a person at the end of the 48 hours and then re-detain them immediately after release, starting a new 48 hour period of detention. HRCB has complained about this in the past, saying this type of conduct by the police violates the spirit, if not the letter, of the Constitution.

The Constitution also guarantees that a person who has been detained is able to communicate “without delay” with a legal practitioner of his choice and in the case of a minor with a parent or guardian. This right could assist in ensuring that the 48 hour detention period is not abused; however, the right to communicate with the outside is itself sometimes not respected. This compounds the violations. At times, the Police in different parts of the country have said that their station telephone is “strapped” so that they can only receive calls but no one can call out. This and the revolving 48 hour door must be addressed and remedied if the constitutional protections for those deprived of their liberty by the State is to have any genuine meaning.

19. Although Belize is a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, it has not ratified the Optional Protocol of the CAT allowing inspections of places of detention to prevent abuse of persons who are institutionalized.

Domestically, the State had in place a mechanism called Visiting Justices who periodically visited the Prison as independent observers and were able to correct wrong doing or mismanagement they noted during the visit. As far as HRCB knows, visitation by the Visiting Justices stopped under the new Prison management and the State has not required that it resume. There is no other independent monitoring or inspections of the Prison done by any group or individual. HRCB recommends that the State ratify the Optional Protocol to CAT and ensures that there is independent observers of the Prison and other places of detention to secure the rights of persons detained in these places.

HRCB does not have the information and thus is not in a position to respond to the question about how *“Kolbe Foundation accounts for the management of the prison and the responsibility of the State for any infractions committed by staff of Kolbe Foundation.”* We are aware that the State

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recently entered into a new contract with the Kolbe Foundation to manage the Prison. HRCB recommends that there be increased transparency about the Prison, how it operates but not to the degree to compromise security, and also the finances and contract terms.

Living conditions have greatly improved after the privatization of the Prison in 2002. Although some at the Prison would argue the point, food has improved and overall quality of life is considerably better than when the government managed the Prison. There are school programs, a substance abuse rehabilitation program, and work opportunities. An often cited criticism of the Prison since privatization has been the indoctrination of the inmates to the Christian religion by the Kolbe Foundation. Religious doctrine is the main mode of rehabilitation in the Prison and some prisoners say unless you claim to be saved or say that you have accepted Jesus Christ as your personal saviour that you are not permitted into certain programs and you will not be recommended for parole. There is a relaxation of the imposition of Christianity we have heard recently and that those who are Muslims or of other faiths are not pressured to adopt Christianity.



**20. The criminal age of responsibility in Belize is 12. It was raised from 9 years old in response to the recommendation of the Committee on the Rights of the Child. The Committee has recommended that Belize again raise the age of criminal responsibility from the current age of 12 but Belize has not chosen to do so as yet.**

**There are currently 68 juveniles at the Wagner Youth Facility, which is located in the same compound as the Belize Central Prison separated by a fence. There are about 48 juveniles detained at the Youth Hostel. Some of these juveniles are there for uncontrollable behaviour, a status offence. Others are at the hostel for criminal offences that are considered less serious or the youngsters are not considered escape risks and therefore do not require the higher security of the Prison facility.**

**21. The lack of access to Legal Aid in grave non-capital cases is one of the most serious problems in the Belize criminal justice system. All persons facing murder charges will be assigned a lawyer if they are unable to retain a lawyer with their own resources. The same however is not true for those charged with other indictable crimes, such as manslaughter, rape, carnal knowledge (sex with a female under the age of consent) arson, and kidnapping and may result, if the accused is found guilty, in lengthy confinement. Other matters that are summary (not indictable) but carry hefty sentences include firearm offences, drug trafficking, robbery and burglary. If a person is charged with any of these offences and cannot afford a lawyer, he or she will go to trial without counsel.**

**One example that HRCB remains concerned about is the case of a 16 year old boy who was charged with carnal knowledge of a teenage girl. He appeared unrepresented in a jury trial, was found guilty and sentenced to 12 years in prison. He is serving that sentence now and the attempt at appealing his case has thus far been thwarted because of some difficulty with putting together**

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**the trial transcript because of a faulty tape recording of the trial.**

**Another example is of a young adult who was the first person to be tried without a jury by Judge alone. He was accused of attempt murder thus did not receive a legal aid lawyer and he could not afford a lawyer. He went to trial unrepresented. His case was prosecuted by the head prosecutor in the country, the Director of Public Prosecutions (DPP) and the Chief Justice presided over it. He was accused and ultimately convicted of attempting to murder the law partner of the Prime Minister.**

**HRCB recommends that the State provide Legal Aid for persons charged with attempt murder, conspiracy to commit murder and manslaughter. As mentioned above, HRCB recommends that juveniles facing imprisonment should be provided a lawyer by the State.**

**The issue of lengthy delays in judges issuing rulings does not affect individuals in criminal cases. This has been an issue of concern in civil matters which obviously affects access to justice but not with respect to persons who are remanded to prison or awaiting sentencing.**

Submitted by YaYa Marin Coleman an employee of Krem Radio and Television. Since 2006, she has hosted a weekly Television program called Sunday Review. She hosts a weekly radio show, and is also an audio visual and print journalist. Ms. Marin Coleman is the chairman of the UBAD Educational Foundation (UEF). A voluntary community based organization which was established on March 10, 1996 by a group of Belizean social activists.

24. Belizeans freedom of opinion and expression are guaranteed in the Belize Constitution Act, Chapter 4 Revised Edition 2000, Part II Protection of Fundamental Rights & Freedoms and Section 12 Protection of Freedom of Expression.

Most of the media houses in Belize are located in Belize City. The major private newspapers in Belize City are the Amandala, and the Reporter. The political owned newspapers are the Guardian and the Belize Times. Love TV, Channel 7, and Channel 5 are the primary television evening news providers. Krem Radio, Love and Wave FM are three of the popular radio stations. In southern Belize an indigenous community based Mayan radio station Ak'kutan has been active in preserving the Mayan culture. PG TV a privately own television station in the Toledo District, has created a niche for environmental reporting. Garinagu people in the Stann Creek District may choose to listen to Hamalali Radio Station. Similarly to the Ak'Kutan station Hamalali focuses on the preservation of the Garifuna culture. The western portion of Belize is home to Plus TV in Belmopan a faith based station that has developed a steady following. Northern Belize with a large population of Mestizos people have media houses that cater to their Spanish speaking audience.

Most media houses newspapers, radio, and televisions are privately owned.

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Belize Broadcasting Authority is the legal regime that regulates the censorship of the media.

I was unable to find any measures to address expressions by journalist in the print media, which allegedly incite violence against people that have same-sex violations.

Submitted by Myrna Manzanares, educator, counselor, human rights activist, past president of the creole council.

25. Belize has a birth policy which sites the responsibility of the healthcare institutions of professionals who attends a live birth to ensure that registration of the birth be completed before the child is discharged from the institution, or within the first seven days of life if the birth should occur outside a health institution. There is a vital statistic arm of that department that provides the live birth forms to all hospitals and the relevant hospital staff who collaborate to ensure that all children born in the institution

are duly registered before discharge. The person in the delivery has the responsibility to file the birth notification form and submit the form to the statistical clerk for birth registration.

26. The National Committee for Families and the Human Services advocates against child pornography and sexual trafficking of children.

School authorities are tasked with ensuring that children are free at schools from physical, sexual or other forms of harassment, intimidation and corporal punishment, and from exposure to drugs, pornography, and other forms of morally, mentally or physically harmful activities.

### **Maya Leaders Alliance and Toledo Alcaldes Association**

The Maya Leaders Alliance (“MLA”), wishes to bring to the attention of the Committee the Belize government’s continuing failure to respect and accommodate the rights of the Maya people of Belize. The MLA is composed of leaders of a variety of representative and sectoral Maya organizations including the Toledo Alcaldes Association (TAA) formed by the 78 *alcaldes* (traditional leaders) of the 38 Maya Q’eqchi and Mopan villages in the Toledo District of Belize.

27. There are two dominant political parties in Belize, the United Democratic Party (UDP) and the Peoples United Party (PUP), who have formed the government through national elections since Independence in 1981. Over the last decade there has been an increasing number of aspiring independent candidates and political parties of which none has been successful thus far. Belizean citizens, including Maya people, are free to contest national elections; however, the two major political parties recruit their own candidates and historically one from the major party wins. For instance, in 2001 Mr. Marcial Mes served as a minister of government under the PUP and then Mr. Juan Coy served under the UDP in 2008. While both of these gentlemen are Maya Q’eqchi, their ascension to government offices was not based on Maya practices and traditions of selecting leaders. These Maya persons represented a political party’s philosophy. For instance, at the hands of one of their own, the government uses the elected ministers to continue the injustices and marginalization upon the Maya people. In November 2010, Mr. Juan Coy attempted to coerce the selection of the traditional leader of Santa Elena, a Maya Mopan village, by unilaterally appointing someone that is loyal to him and his government. With the support of the Toledo Alcaldes Association and Maya Leaders Alliance the village was eventually able to conduct  
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their own selection of a leader. Currently, there is no Maya Q’eqchi or Mopan in central government.

In August 2009, the Belize Ministry of Labour, Local Government and Rural Development announced a National Policy on Local Governance, funded by the United Nations Development Program. Among other things, this policy included the introduction, in January 2010, of the *Alcalde Jurisdiction Bill*. The bill has not been passed and is still in draft form.

The scope of *alcaldes*’ customary authority in the *Alcalde Jurisdiction Bill* is very limited, and it contained absolutely no reference to Maya customary title, Maya land rights, or the *alcaldes*’ role and responsibility with respect to land use. Thus, in the context of the government’s general refusal to recognize Maya customary land rights, the new legislation threatened to restrict the jurisdiction and scope of Maya customary governance institutions and further impede the exercise of Maya customary rights, property and other rights. The first draft was developed without consulting the Maya people.

To its credit, after the traditional leaders objected to the process, the government agreed to delay presentation of the bill to the National Assembly while the Maya leadership (at its own expense) carried

out a number of workshops and developed a new draft bill. This draft was presented to the government in the summer of 2011.

If the alcaldes' input on central issues is accepted, the bill could be a great step forward in the formal recognition of Maya customary rights, including land rights. If adopted, the Toledo Alcalde Association's proposed bill would allow village lands to be demarcated and placed [recognized?] under the jurisdiction of the traditional Maya governance system, the alcaldes. Since the alcalde system is the traditional governance system of the Maya people of southern Belize, grounded in and operating on the basis of Maya custom and tradition, this legislation has the potential to be very positive.

The act does not, however, provide a complete solution: it does not provide for the titling of customary title lands. In the case of many Maya villages where village boundaries and customary title boundaries are contiguous, the act could provide significant protection. However in some situations, especially in the largest villages, village boundaries encompass both collective customary title lands and "government system" lease or [fee simple lands]. In all cases, actual titling is important to ensure that Maya customary title lands are protected from encroachment and unilateral expropriation.

The proposed *Alcalde Jurisdiction Bill* 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. Thus, while there is partial progress in this area, it bears close monitoring, as the outcome is by no means assured to be protective of indigenous rights.

There has been no further response to the alcalde's draft from the government, or progress in advancing the new *Alcalde Jurisdiction Bill* into law. The Association has been told that funding for the project has expired.

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28. The government of Belize has not only failed to take any action to prevent third parties from extracting resources from Maya lands, but has facilitated resource development activities and undermined Maya village leaders' efforts to protect their lands and resources.

The Inter-American Commission on Human Rights in its Report No. 40/04<sup>1</sup> determined that the Maya customary land tenure system gives rise to property rights. In addition, the Supreme Court of Belize issued two judgments affirming the same principle, applying the right to property contained in the Belize Constitution Act.<sup>2</sup> Both the IACHR and the Supreme Court instructed the government of Belize to

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<sup>1</sup> *Case of Maya Indigenous Communities of Toledo v. Belize*, Case 12.053, Inter-Am. C.H.R Report No. 40/04 (2004).

<sup>2</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), indexed by the court as *Re Maya Land Rights; 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.belize.gov.bz/supreme\\_court/judgments.html](http://www.belize.gov.bz/supreme_court/judgments.html)

demarcate, delimit and title Maya lands. In addition, both bodies exhorted the government to “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.” A domestic injunction to this effect remains in place. In addition, various international bodies have raised concerns with Belize regarding its failure to demarcate and protect Maya village lands, and its interference with those lands.<sup>3</sup>

Not only have no steps been taken since to establish a demarcation or titling mechanism, but the executive and legislative branches of the government of Belize refuse to even acknowledge the existence of the Maya indigenous peoples’ rights to their lands at all. The government appealed the most recent Supreme Court judgment, and has taken the position before the courts that the Maya are not even indigenous peoples of Belize. The appeal was heard before a three-member panel in March and June 2011, and a decision is expected in March of 2013.

Due to a lack of formal recognition and protection of Maya land rights by the government of Belize, the unilateral expropriation of Maya lands continues with the granting of leases and natural resource concessions in the absence of consultation and the consent of the villages. Examples of this include:

1. The Minister of Natural Resources issued permits to U.S. Capital Energy Ltd in March 2010, 2011, and 2012 allowed the company to engage in petroleum exploration and extraction activities in the lands of four Maya villages. Despite Maya objections against the drilling, Prime Minister Dean Barrow identified the Toledo District as having the highest potential for oil extraction and stated that drilling will occur.<sup>4</sup>
2. In 2011, according to the government’s own statistics, 7 times more Rosewood timber was logged in Toledo – virtually all from Maya village lands – than was permitted by the Forestry Department. Maya village leaders confirmed that vast quantities of timber were illegally
3. removed from their land in violation of their customary norms. At first, the government took no steps to protect the Maya villagers’ rights over this valuable timber resource, and in fact, encouraged the illegal extraction by explicitly permitting the timber to be transported and exported without requiring proof that it was extracted with the consent of the affected Maya villages. In March 2012 the Ministry of Forestry, Fisheries and Sustainable Development issued an indefinite moratorium on the harvesting and exportation of Rosewood. In January 2013 residents of the Maya village of Golden Stream intercepted a container truck of Rosewood being smuggled out of Golden Stream village lands that is worth \$400,000 USD. The villagers exposed that the illegal extraction of Rosewood was happening in a logging concession that was granted to Hilmar Alamilla in 2012 by the Forest Depart without the knowledge and permission of the

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<sup>3</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. See also *Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Rodolfo Stavenhagen: Addendum - Summary of cases transmitted to Governments and replies received*, U.N. Doc. A/HRC/4/32/Add.1 (March 19, 2007) calling upon Belize to comply with the IACHR recommendations. See also *Universal Periodic Review, Report of the Working Group on the Universal Periodic Review: Belize*, U.N. Doc. A/HRC/12/4 (June 4, 2009).

<sup>4</sup> “PM’s call to ‘Drill at Will’ in protected areas,” CHANNEL 5 NEWS (Feb. 10, 2011) <http://ourbelize.net/phpbb3/viewtopic.php?f=32&t=2477>; “SATHIM says NO drilling” AMANDALA, (Mar. 11, 2011) <http://amandala.com.bz/index.php?id=10974>.

villagers of Golden Stream. The Minister of Forestry in her frustration of what she calls ‘corruption within her ministry’ burned the logs to send a message to the illegal harvesters and corrupt public officers. This latest action of the government to issue a logging concession in 2012 is a clear signal that they do not intend to uphold the rule of law and the 2010 Supreme Court injunction.

4. The Lands Department has continued to process and approve lease applications from third parties over Maya village lands. 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>5</sup>
5. The government has been constructing a paved road through a number of Maya villages without consulting or obtaining their approval. This road is intended to run to the border with Guatemala and to significantly increase traffic through and access to the lands used and occupied by these villages. Experience in Belize and a number of other countries has 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 their lands to invasive settlers.

To the best of our knowledge, the government has not initiated drafting legislation that would address demarcation and titling of Maya lands. The *National Policy on Local Governance in Belize*,<sup>6</sup> approved by the government on August 25, 2009, included “establishment of village boundaries” as one of the revisions to be

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made to the existing *Village Councils Act* and the implementation plan for that policy foresaw the demarcation of 33% of the villages in Belize pursuant to those amendments by the end of 2010.<sup>7</sup>

The policy stated that “The geographical boundaries for all villages in Belize must be established by the Government of Belize within three years of the approval of this policy. The criteria to be used for designating village boundaries will include but not be limited to (a) residential areas, (b) recreational space, (c) traditional boundaries, (d) selected farmlands, and (e) provision for village expansion. The participation and consent of villagers in the designation of village boundaries must be sought.”<sup>8</sup>

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5 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]

6 Attached as Appendix 1. *See particularly* p.14, item #6 and p.35, item #4.

7 Attached as Appendix 2.

The proposal did not specifically reference Maya customary law or indigenous title, although the reference to “traditional boundaries” could have encompassed these principals. However, the proposal made no reference to indigenous title nor to any process for titling collectively owned village lands; rather the boundaries referred to were solely jurisdictional.

29. The government has made no administrative or legislative attempts to address indigenous peoples’ right to participation in decision making. On the contrary, it repeatedly neglects to include the Maya in decisions affecting them and ignores their opposition to development projects on their lands.

As a recent example, on October 7, 2012, U.S. Capital published a notice of its Environmental Impact Assessment in relation to exploratory drilling on Maya lands including the Sarstoon-Temash National Park. The notice advised that the EIA was available online for public comment. The document is over 300 pages long and is written in technical English, making it extremely difficult for the Mopan and Q’eqchi’ speaking Maya people to understand its content and provide comments. A single consultation meeting was scheduled for October 25, 2012 in the Maya village of Sunday Wood.

The Maya asked the government to reschedule the consultation meeting from October 25 to November 22, 2012<sup>9</sup> to ensure sufficient time for the communities to get assistance with interpreting the lengthy, technical document so that they could effectively participate in consultations with U.S. Capital. The government rejected the request,<sup>10</sup> effectively excluding the Maya people from this decision-making process that will have a major impact on their physical, economic and cultural survival.

The government’s attempts at consultation were inadequate and ineffective as they did not take into account the Maya people’s traditional process of consultation. Very few community members have access to electricity much less computers and internet to view online documents. Maya cultural knowledge is not primarily written and literacy skills vary. Although written supplements are helpful, Maya customary decision-making requires information to be delivered orally, in person, in Maya language(s) and with sufficient time to evaluate and discuss the information among villagers and to involve their own legal and technical experts.

The government has ignored the Maya’s request for information on the proposed exploratory drilling submitted to various government agencies. Maya leaders recently sent a letter to the Prime Minister of  
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Belize asking for all pertinent documents including results of seismic surveys, EIA permits, work plans, and maps of drill sites.<sup>11</sup> Full disclosure is required to ensure that communities “are fully and accurately informed of the nature and consequences of the process.”<sup>12</sup>

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<sup>8</sup> Supra note 5, p.24, #9.

<sup>9</sup> Ltr from Martin Alegria, Chief Environmental Officer, Department of the Environment, to Gregory Ch’oc, Executive Director, SATTIM (misspelled Ch’co) Oct. 16, 2012, attached as “Appendix 3”.

<sup>10</sup> Ltr from Gregory Ch’oc to Martin Alegria, Oct 22, 2012, attached as “Appendix 4”.

<sup>11</sup> Ltr from Gregory Ch’oc et al. to Prime Minister Dean Oliver Barrow, Oct. 19, 2012, attached as “Appendix 5.”

On October 23, 2012, the MLA and TAA sent their position statement and consultation framework to the Prime Minister of Belize and a number of government Ministries asking the government to comply with the injunctions and to effectively consult with the Maya communities in accordance with the framework developed by the Maya people. The government's reply did not address either of these issues but instead offered a benefit-sharing agreement that the MLA and TAA consider to be inadequate. Communications between the government of the Belize and the Maya organizations are on-going. By refusing to engage in meaningful and effective consultation with the Maya people, the government is ignoring the judgments issued by its own Supreme Court and is in violation of international human rights law including the jurisprudence of the inter-American system<sup>13</sup>, specifically the Final Report issued by the Commission in the *Maya Communities* case,<sup>14</sup> and its obligations under the United Nations Declaration on the Rights of Indigenous People.<sup>15</sup> The Maya people are preparing domestic court action to obligate the government to engage in a meaningful consultation process and to proceed with activities only where free, prior and informed consent is granted.

In 2011 the government created an Indigenous Ministry led by Minister Lisel Alamilla without any form of consultation with the Maya people. The Maya leaders publicly voiced their concern over government's failure to consult with the indigenous peoples on this administrative measure as obligated under the United Nations Declaration on the Rights of Indigenous People. Again, without engaging with the Maya leaders, the government responded by cancelling the ministry. Given this attitude of the government towards the Maya people and the fact that the government actions are already in violation of two domestic court orders, international attention is vital to impress the seriousness of the situation on the government of Belize.

## CONCLUSION AND RECOMMENDATIONS

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<sup>12</sup> *Maya Communities*, *supra* note 1 at para. 142.

<sup>13</sup> *Case of the Saramaka People v. Suriname*, Preliminary Objections, Reparations and Costs, Judgment of November 28, 2007, Inter-Am. Ct.H.R, Series C No. 172 at paras. 133-134: The State must ensure that consultations:

- are in good faith, and occur through culturally appropriate procedures with the objective of reaching an agreement;
- occur at the early stages of development, not only when the need arises to obtain approval from the community;
- present possible risks, including environmental and health risks, in order that the proposed development is accepted knowingly and voluntarily;
- involve acceptance and dissemination of information that entails constant communication between the parties;
- take account of the indigenous people's traditional methods of decision-making; and
- involve the free, prior, and informed consent of the indigenous community, according to their customs and traditions, in cases involving large scale development that would have a major impact within the indigenous territory

<sup>14</sup> *Maya Communities*, *supra* note 1.

<sup>15</sup> The United Nations Declaration on the Rights of Indigenous Peoples, 13 September 2007 Art. 19 requires states to "... consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them." See also articles 10, 11, 15, 17, 19, 28, 29, 30, 32, 36, and 38.



While the Government has been clearly informed by its Supreme Court and various international bodies that Maya customary land rights exist in Toledo District, it continues to contest the legal validity of those rights and insists on litigating their existence. The government of Belize's failure to comply with and implement the Supreme Court judgments requiring land titling of Maya villages and prohibiting third party interference is the source of ongoing human rights violations.

The Human Rights Committee is urged to take note of the discriminatory treatment that the Maya indigenous peoples of Belize continue to endure; the State's inaction regarding the recommendations of other international human rights bodies; and the government of Belize's overall disregard of international law and institutions. With these issues in mind, we urge the Committee to coordinate with ongoing efforts by other treaty monitoring bodies, such as the Committee on the Elimination of Racial Discrimination, to ensure urgent action is taken against Belize in matters where indigenous peoples are facing imminent harm.

We respectfully request that the Committee, at its review of Belize, urge the State 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.