

**URGENT APPEAL TO THE U.N. SPECIAL RAPPORTEUR ON THE SITUATION OF
THE HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF INDIGENOUS
PEOPLE, IN REGARDS TO HUMAN RIGHTS VIOLATIONS BY BELIZE**

Submitted by the Maya Leaders Alliance

on behalf of the Maya People of Belize

Prepared by the University of Arizona Indigenous Peoples Law and Policy Program

I. INTRODUCTION AND SUMMARY

The Maya Leaders Alliance submits this communication on behalf of the indigenous Q'eqchi' and Mopan Maya people of Belize. It requests the support of the Special Rapporteur in bringing international attention to the past and continued violations of the human rights of Maya people on the part of the state of Belize, and the failure of the government to implement the recommendations of the Inter-American Commission on Human Rights to secure Maya rights over their traditional lands. The current actions of the state of Belize threaten to further marginalize Maya people through the perpetuation of a pattern of discrimination, infringement, and non-recognition of their rights.

In 2004, the Inter-American Commission issued a report finding that Belize had violated its obligation to protect Maya rights over their lands and natural resources by granting numerous logging and oil concessions on lands traditionally used and occupied by Maya people. In its final report, the Inter-American Commission recommended that Belize delimit, demarcate, and title the lands of the Maya in accordance with their customary land use practices, and refrain from any acts that "might affect the existence, value, use or enjoyment of the property located within the geographic area occupied and used by Maya people."¹ Since the Inter-American Commission issued its final report regarding the human rights violations of Belize, the state has done nothing to attempt to remedy the situation of the Maya people in the Toledo District.

Belize has disregarded the Inter-American Commission's recommendations, explicitly taking the position that "[t]he Inter-American Commission on Human Rights report is not legally binding on Belize."² The state continues to commit acts and omissions with regard to the Maya traditional lands that threaten immediate and irreparable harm to the Maya people. These acts

¹ Case of Maya Indigenous Communities of Toledo v. Belize, Case 12.053, Inter-Am. C.H.R. Report No. 40/04 ¶ 197 (2004) [hereinafter "IACHR Report"] (Attached as appendix 1).

² Statement by Belize Solicitor General to the press, following the release of the Inter-American Commission on Human Rights final report in the case of the *Maya Communities of Toledo District v. Belize* [date unknown].

include granting third party concessions to extract natural resources on Maya lands and leasing communally held indigenous lands to private, often non-Maya individuals.

In addition to violating the American Declaration of the Rights and Duties of Man, as found by the Inter-American Commission, these acts of the Belize government also violate its obligations under United Nations treaties to which it is a party, including the International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Racial Discrimination. The failure of Belize to adhere to the recommendations of the regional international human rights body and to desist from inflicting these ongoing harms, coupled with inadequate protections within domestic Belizean law, represents an imminent threat to the traditional land of the Maya people and, consequently, to their physical and cultural survival.

The Maya Leaders Alliance respectfully requests that the Special Rapporteur call upon Belize to comply with the recommendations of the Inter-American Commission, thereby securing Maya rights over their traditional lands and resources. This appeal further requests that, in order to further investigate the facts of this case, the Rapporteur conduct an on-site visit to the Toledo District in Belize. In its efforts to enforce the Inter-American Commission report, the Maya Leaders Alliance seeks assistance in its negotiations with the government of Belize for an amicable resolution to the problems set forth in this communication. Finally, the Maya Leaders Alliance respectfully requests that the Special Rapporteur inform the Commission on Human rights and other relevant United Nations bodies about the imminent threat faced by the Maya people and the Belizean state's lack of adherence to and continued disregard for international human rights law.

II. BACKGROUND

a. Description of Victims

The present communication to the United Nations Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People is presented by the Maya Leaders Alliance on behalf of the Q'eqchi' and Mopan speaking Maya people of the Toledo district in southern Belize. The Maya Leaders Alliance is constituted by the leaders of several non-profit organizations that represent the Q'eqchi' and Mopan Maya people of Toledo district with the goal of securing Maya rights over their traditional lands. The organizations that form the Maya Leaders Alliance include the Toledo Alcaldes' Association, Toledo Maya Womens' Council, Q'eqchi Council of Belize, and the Toledo Maya Cultural Council. Several other non-profit organizations engaging in activities in support of the Maya people of the Toledo district also participate in the organization.

The Maya of Toledo are the direct descendants of the ancient Maya civilization, whose population reached its peak around A.D. 900.³ The Maya people inhabited the Toledo District in southern Belize and surrounding regions long before the arrival of the Spanish, and well before British settlement in the area in 1850.⁴ The Mopan Maya were the principal inhabitants of the

³ TOLEDO MAYA CULTURAL COUNCIL & TOLEDO ALCALDES ASSOCIATION, *THE MAYA ATLAS: THE STRUGGLE TO PRESERVE MAYA LAND IN SOUTHERN BELIZE*, 3, North Atlantic Books (1997) [hereinafter "MAYA ATLAS"].

⁴ *See id.*

Toledo District between the sixteenth and eighteenth centuries, and the Q'eqchi' Maya "may have been moving in and out of the area long before the well-known migrations from Guatemala during the late nineteenth century."⁵ Both the Q'eqchi' and Mopan people engage in religious and other practices that are derived from the traditions of their ancient Maya ancestors. These include agricultural practices based on a customary system of land distribution and crop rotation. The Maya people of southern Belize retain other distinctive cultural attributes including language, food, music, and oral history, all of which have been passed down through generations.⁶

Maya ancestral territory covers over one million acres in the southern region of Belize, and is comprised of Maya living, farming, hunting, fishing, and ceremonial areas. Maya plant crops mostly for their own subsistence in the area surrounding the village centers. Corn is the staple food of the Maya and is planted twice a year according to traditional *milpa* (slash and burn) and *matambre* (mulch) farming.⁷ Within their agricultural lands, Maya also raise animals and plant rice, beans, and vegetables on a rotational basis throughout the year and permanent crops such as fruit and cacao.⁸ In the large expanses of forest surrounding the village centers and agriculture areas, Maya hunt and gather materials to construct their palm thatch-roof houses and canoes, and gather plants to be used for traditional medicines. In addition, they fish, bathe, and wash in the rivers and creeks that run throughout their lands. The Maya also use sacred sites within caves, steep hills, and ancestral temples (considered by others as archeological sites)⁹ for ceremonial purposes and as burial grounds.¹⁰

The Maya people have a traditional land tenure system, within which lands are held communally, and individuals have certain rights of use and occupancy rights over the lands on which they live and farm.¹¹ Land management is carried out through the village leader, called an *alcalde*, with the consultation of the villagers and a local village council.¹² The *alcaldes* were part of the governance structures that evolved under European colonization, and have been adapted by the Maya into their own traditional governance practices of pre-colonial origins.¹³ The Maya employ a long-fallow rotational system that requires extensive forested area to remain undisturbed for long periods.¹⁴ While some fertile lands are permanently under cultivation, most agricultural areas are cleared only every eight to fifteen years, cultivated with rotational crops, used for grazing, and then allowed to lie fallow and regenerate until the next clearing.¹⁵ If a farmer has farmed an area of virgin forestland, he will be expected to work on this land for seven

⁵ *Id.*

⁶ *See id.*

⁷ *See id.* at 20.

⁸ *See id.* at 22.

⁹ *See* Petition to the Inter-American Commission on Human Rights by the Toledo Maya Cultural Council on behalf of Maya Indigenous Communities of the Toledo District, against Belize at para. 19 (August 7, 1998) [hereinafter "Petition"] (Attached as appendix 2).

¹⁰ *See id.*

¹¹ *See* Petition, *supra* note 9, ¶ 20; MAYA ATLAS, *supra* note 3, at 19.

¹² *See* Petition, *supra* note 9, ¶ 13; MAYA ATLAS, *supra* note 3, at 19.

¹³ Petition, *supra* note 9, at para. 13.

¹⁴ *See id.* at para 16.

¹⁵ *See id.*

or more years; after this period the farmer may leave the area free to be cultivated by other farmers in the future.¹⁶

b. The Acts and Omissions of Belize Undermine Maya Traditional Land Tenure

Since 1993, the Ministry of Natural Resources of Belize, without consultation and the consent of the Maya people, began granting numerous logging concessions covering a total of over half a million acres of land in the Toledo District which included reservation and non-reservation lands traditionally used and occupied by the Maya.¹⁷ One of the logging concessions was given to a Malaysian timber company, Toledo Atlantic International, Ltd. for an area of 159,018 acres that included a third of the Maya villages in the Toledo District and consequently endangered roughly half of the Maya population in the District.¹⁸ These logging concessions have resulted in damage to the natural resources and ecosystems of Maya traditional lands in the Toledo District.¹⁹

Equally threatening and potentially destructive as the logging concessions, have been a series of oil development concessions granted by the government of Belize. This began in late 1997 when the Ministry of Energy, Science, Technology and Transportation of Belize approved an oil exploration permit for AB Energy, Inc. within Block 12, an area of 749,222 acres in Toledo that was designated by the government as open to oil development.²⁰ This concession, which covered an area mostly used and occupied by the Maya of Toledo District, was granted in secrecy without any consultation with the Maya people or regard for Maya traditional land tenure and did not become public knowledge until after it was approved.²¹ Other oil development concessions in the Toledo District in and around traditional Maya lands were also granted during the late 1990's in similar fashion without the consent and prior knowledge of the Maya people or rest of the public potentially affected by such activities.²²

The Maya people of the Toledo District have repeatedly attempted, without success, to have the Belize government address and resolve their concerns about natural resource concessions in their traditional territory. From 1995 to 1997 (one year before submitting its petition to the Inter-American Commission on Human Rights), Maya community members have publicly denounced logging concessions and activities in national symposiums, through newspaper articles and editorials, public demonstrations, constant requests to government agencies for specific information about logging concessions, and meetings with various public officials including the Prime Minister.²³ Despite these efforts by the Maya people, government officials remained entrenched in a pattern of neglect and disregard for the concerns of the Maya regarding their traditional lands, natural resources and environment.

¹⁶ See MAYA ATLAS, *supra* note 3, at 19.

¹⁷ See Petition, *supra* note 9, at para. 23.

¹⁸ See *id.*

¹⁹ See Petition, *supra* note 9, at paras. 26-35.

²⁰ See Petition, *supra* note 9, at para.36.

²¹ See *id.*

²² See Petition, *supra* note 9, at para. 39.

²³ See Petition, *supra* note 9, at paras. 46-63.

c. Efforts to Resolve Maya Claims

i. The Failure of the Domestic Judicial System of Belize

In late 1996, the Toledo Maya Cultural Council (TMCC) filed a claim in the Supreme Court of Belize on behalf of the thirty-seven Maya communities of Toledo district. The action was brought after the Belize Ministry of Natural Resources granted two multinational companies concessions to log over a half a million acres of rain forest in the Toledo District, and after protests by the TMCC went unanswered. The claim challenged the constitutionality of the logging concessions granted by the government and specifically sought a declaration of the Maya communities' aboriginal title over their traditional lands and resources.

Due to delays by the Supreme Court and the government officials defending the case, the claim was never resolved within the domestic legal system. Affidavits and other documentary evidence were filed with the court, but no decision on the merits of the case was ever issued, despite the court's order that the case would be decided on basis of such documentary evidence.²⁴ Government officials added to the court's delay by failing to respond to the Maya parties' request for the production of documents and by successfully pressing the court for an indefinite adjournment of the hearing on a motion for interlocutory relief.²⁵ Furthermore, government officials failed to respond to the settlement proposal delivered by the TMCC and Toledo Alcaldes' Association.²⁶

ii. Intervention by the Inter-American Commission on Human Rights

Failing to obtain any response from the government or judicial authorities of Belize, the TMCC turned to the Inter-American Commission on Human Rights for a remedy. The TMCC submitted a petition to the Inter-American Commission on Human Rights in 1998 against the state of Belize alleging violations of rights enshrined in the American Declaration of the Rights and Duties of Man and in various provisions in international law, for failing to protect Maya rights over their land and resources.

After the petition had been filed with the Inter-American Commission, the TMCC and the government of Belize agreed to a process of friendly settlement under the auspices of the Commission.²⁷ At the friendly settlement meeting with the Inter-American Commission, the TMCC communicated its conditions for continuing the friendly settlement process.²⁸ Among these conditions was a commitment from the state to alter immediately its course of action regarding the logging, oil exploration, and other development activities.²⁹

However, this process was unsuccessful, as Belize failed to abide by the agreed upon terms of the negotiation or to respond adequately and in a timely manner to the petitioners proposals and

²⁴ See Petition, *supra* note 9, at para. 81.

²⁵ See *id.*

²⁶ See *id.*

²⁷ See Petitioner's Request for Precautionary Measures, Case No. 12.053 para. 6 (October 26, 1999) (Attached as appendix 3).

²⁸ See *id.* at para. 7.

²⁹ See *id.*

requests for information.³⁰ In a submission to the Inter-American Commission, Belize responded to the petitioners' conditions:³¹ the state declined to agree to the petitioners' conditions and refused to immediately suspend the proposed legislation affecting Maya communities on Maya traditional lands.³² On December 13, 1999, after ten months of fruitless efforts to engage the state in meaningful negotiations, the TMCC terminated the friendly settlement process in the case.³³

Due to the immediate threats that the logging and oil concessions posed to Maya land rights, in 1999 and 2000 the TMCC presented a requests for precautionary measures to the Inter-American Commission.³⁴ In response, the Commission ordered that the "State of Belize to take the necessary steps to suspend all permits, licenses, and concessions allowing for the drilling of oil and any other tapping of natural resources on lands used and occupied by the Maya Communities in the District of Toledo, in order to investigate the allegations in this case."³⁵ The Government countered by asking the Commission to lift the precautionary measures, contending that the Petitioners had not proved that the resource development concession had resulted in harm to the Maya people.³⁶ Although the Commission did not revoke the precautionary measures, unsurprisingly the government of Belize did not make even a minimal effort to comply with them.

III. INTER-AMERICAN COMMISSION FINDINGS OF HUMAN RIGHTS VIOLATIONS AND RECOMMENDATIONS FOR REPARATIONS

a. Conclusions of the Commission

In its final report on the merits of the case in the case of the *Maya Indigenous Communities of the Toledo District v. Belize*, the Inter-American Commission on Human Rights found that the state of Belize had violated specific provisions of the American Declaration of the Rights and Duties of Man by not recognizing Maya traditional lands; by failing to delimit, demarcate, and officially recognize those lands; and by granting logging and oil concessions to third parties to extract resources within them.³⁷ Specifically, the report concluded that Belize had violated the following rights protected by the American Declaration: 1) the right to property (Article XIII), 2) the right to equal protection of the law and non-discrimination (Article II), and 3) the right to judicial protection (Article XVIII).

³⁰ See Petitioner's Request for Precautionary Measures, *supra* note 27.

³¹ See Supplemental Request for Precautionary Measures and Request for an On-Site Visit, Case No. 12.053 para. 9 (October 3, 2000) (Attached as appendix 4).

³² See *id.*

³³ See *id.*

³⁴ See Petitioner's Request for Precautionary Measures, Case No. 12.053, *supra* note 20, at para. 6 (October 26, 1999); Supplemental Request for Precautionary Measures and Request for an On-Site Visit, Case No. 12.053 *supra* note 24 at para. 9 (October 3, 2000).

³⁵ Annual Report of the Inter-American Commission on Human Rights 2000, OEA/Ser./L/V/II.111doc.20 rev, para. 11 (16 April 2001).

³⁶ See Government submission entitled, "Preliminary Response to the Inter-American Commission on Human Rights, Case No. 12.052, The Toledo Maya Cultural Council on Behalf of Maya Communities of the Toledo District against Belize" May 8, 2001.

³⁷ See IACHR Report, *supra* note 1, para. 5.

Building on the jurisprudence of the Inter-American Court of Human Rights in *Awat Tingni v. Nicaragua*³⁸, the Commission found that indigenous property rights protected by the Inter-American human rights system

are not limited to those property interests that are already recognized by states or that are defined by domestic law, but rather that the right to property has an autonomous meaning in international human rights law. In this sense, the jurisprudence of the system has acknowledged that the property rights of indigenous peoples are not defined exclusively by entitlements within a state's formal legal regime, but also include that indigenous communal property that arises from and is grounded in indigenous custom and tradition.³⁹

Based on this understanding of the right to property, the Commission concluded in its final report that "[t]he State violated the right to property enshrined in Article XXIII of the American Declaration to the detriment of the Maya people, by failing to take effective measures to recognize their communal property right to the lands that they have traditionally occupied and used."⁴⁰ The Commission also concluded that Belize had violated Maya property rights by failing to "delimit, demarcate and title or otherwise establi[sh] the legal mechanisms necessary to clarify and protect the territory on which their right exists,"⁴¹ and that the Belizean government violated property rights of the Maya of Toledo by "granting logging and oil concessions to third parties to utilize the property and resources that could fall within the [Maya] lands. . . in the absence of effective consultations with and the informed consent of the Maya people."⁴²

Beyond the violations by Belize of Maya property rights, the Commission also found that Belize violated the right to equal protection of the law enshrined in Article II of the *American Declaration* by "failing to provide [the Maya] with the protections necessary to exercise their property rights fully and equally with other members of the Belizean population."⁴³ Finally, the Commission concluded that "[t]he State violated the right to judicial protection enshrined in Article XVIII of the American Declaration to the detriment of the Maya people, by rendering domestic judicial proceedings brought by them ineffective through unreasonable delay and thereby failing to provide them with effective access to the courts for protection of their fundamental rights."⁴⁴

b. Recommendations of the Commission

To remedy these violations, the Inter-American Commission recommended that Belize delineate, demarcate, and title Maya traditional lands.⁴⁵ According to the Commission, this demarcation

³⁸ Case of the Mayagna (Sumo) Awat Tingni Community v. Nicaragua, Inter-Am. Ct. H.R., Case No. 11.577 (August 31, 2001).

³⁹ Maya Indigenous Communities of the Toledo District v. Belize (Preliminary Report), Case 12.053, Report No. 96/03, para. 116 (24 October 2003).

⁴⁰ IACHR Report, *supra* note 1, at para. 193.

⁴¹ *Id.*

⁴² IACHR Report, *supra* note 1, at para. 194.

⁴³ IACHR Report, *supra* note 1, at para. 195.

⁴⁴ IACHR Report, *supra* note 1, at para. 196.

⁴⁵ See IACHR Report, *supra* note 1, at para. 197.

and titling process should be in accordance with the customary and traditional use and occupancy practices of the Maya people.⁴⁶

Specifically, in its Final Report, the Commission reiterated to the State of Belize that it:

1. Adopt in its domestic law, and through fully informed consultations with the Maya people, the legislative, administrative, and any other measures necessary to delimit, demarcate, and title or otherwise clarify and protect the territory in which Maya people have a communal property right, in accordance with their customary land use practices, and without detriment to other indigenous communities.⁴⁷
2. Carry out the measures to delimit, demarcate and title or otherwise clarify and protect the corresponding lands of the Maya people without detriment to other indigenous communities and, until those measures have been carried out, abstain from any acts that might lead the agents of the State itself, or third parties acting with its acquiescence or its tolerance, to affect the existence, value, use or enjoyment of the property located within the geographic area occupied and used by the Maya people.⁴⁸
3. Repair the environmental damage resulting from the logging concessions granted by the State in respect of the territory traditionally occupied and used by the Maya people.⁴⁹

IV. FAILURE OF THE GOVERNMENT OF BELIZE TO INITIATE GOOD FAITH NEGOTIATIONS OR OTHERWISE IMPLEMENT THE RECOMMENDATIONS OF THE INTER-AMERICAN COMMISSION

Defying the recommendations outlined by the Inter-American Commission in its report in the case of the *Maya Communities of Toledo District v. Belize*, the state of Belize has not taken any affirmative measures to protect Maya lands. In fact, as mentioned above, the Solicitor General of Belize dismissed the Commission's recommendations in a statement to the press following the release of the report, declaring that "[t]he Inter-American Commission on Human Rights report is not legally binding on Belize."⁵⁰ The government of Belize has effectively ignored the recommendations of the Inter-American Commission, even while purporting to recognize Maya traditional land rights and enter into negotiations on that basis.

On October 20, 2000, representatives of the Maya of Toledo signed an agreement with the Prime Minister of Belize entitled the *Ten Points of Agreement between the Government of Belize and the Maya Peoples of Southern Belize*. In point six of this agreement, the state recognizes that the Maya people "have rights to lands and resources in southern Belize based on their longstanding use and occupancy."⁵¹ The state refuses to negotiate under the framework of the Inter-American

⁴⁶ See *id.*

⁴⁷ See *id.*

⁴⁸ See *id.*

⁴⁹ See *id.*

⁵⁰ Statement by Belize Solicitor General to the press, *supra* note 2.

⁵¹ Ten Points of Agreement between the Government of Belize and the Maya Peoples of Southern Belize (October 20, 2000) (Attached as appendix 5).

Commission's recommendations under the pretext that it will only negotiate under the "Ten Points of Agreement."⁵²

Representatives of the Maya communities of Toledo district have attempted to engage in negotiations with the Belize state under the Commission's report and the Ten Points of Agreement several times since the Commission's final report was issued.⁵³ However, the discussions have not advanced implementation of either the Ten Points of Agreement or the Commission's report.

In a promising but ultimately hollow communication to the Maya Leaders Alliance (MLA) of November 26, 2004, Assad Shoman, Minister of National Development and Belize Government Chief Negotiator, stated that he was "authorized by the Prime Minister to continue discussions" in order to "ensure effective and meaningful progress" regarding the issue of land, including the option of communal land.⁵⁴ The specific agreed-upon discussions were to include: "1) to identify the communities that would be consulted regarding land tenure security; 2) to define the legal framework for the management of communal lands; 3) to decide how to deal with anomalies; and 4) to determine how the existing Indian reservations would fall under the land tenure and management scheme."⁵⁵ Ambassador Shoman concluded the November 26 communication by suggesting that the MLA submit the names of the villages where it believes that communal lands should be allocated, and the areas surrounding each village that it proposes be declared communal lands. Assad Shoman concluded the letter by stating that he would get his "team to study the proposal and prepare a position for a first meeting of this new round."⁵⁶

On January 24, 2005, the MLA wrote a letter responding to Ambassador Shoman, expressing its concerns about the parceling and leasing of lands to outsiders in San Pedro Columbia village and Santa Anna village and the threat that farmers in Aguacate and Blue Creek villages faced of losing their lands and houses due to loan foreclosures.⁵⁷ Additionally, the MLA communicated its concerns regarding visits made by Belize government representatives in the villages of Toledo district,⁵⁸ during which government representatives threatened Maya villagers that if they did not

⁵² See Minutes of meeting between the Maya Leaders Alliance and John Briceño, Deputy Prime Minister and Minister Michael Espot (November 25, 2005).

⁵³ See Letter from Assad Shoman, Minister of National Development and Government Chief Negotiator, to Gregorio Choc, Coordinator of Maya Leaders Alliance (Nov. 29, 2004) [herein after "November 29, 2004 Letter"] (Attached as appendix 6); Letter from Assad Shoman, Minister of National Development and Government Chief Negotiator, to Gregorio Choc, Coordinator of Maya Leaders Alliance, (Mar. 9, 2005) [hereinafter "March 9, 2005 Letter"] (Attached as appendix 7); Letter from Assad Shoman, Minister of National Development and Government Chief Negotiator, to Gregorio Choc, Coordinator of Maya Leaders Alliance, (Apr. 6, 2005) [hereinafter "April 6, 2005 Letter"] (Attached as appendix 8); Letter from Assad Shoman, Minister of National Development and Government Chief Negotiator, to Gregorio Choc, Coordinator of Maya Leaders Alliance, (May 31, 2005) [hereinafter "May 31, 2005 Letter"] (Attached as appendix 9); Letter from Gregorio Choc, Coordinator of Maya Leaders Alliance to Assad Shoman, Minister of National Development and Government Chief Negotiator, (Jan. 24, 2005) [hereinafter "January 24, 2005 letter"] (Attached as appendix 10); Letter from Gregorio Choc, Coordinator of Maya Leaders Alliance, to Assad Shoman, Minister of National Development and Government Chief Negotiator, (Apr. 4, 2005) [hereinafter "April 4, 2005 Letter"] (Attached as appendix 11).

⁵⁴ November 29, 2004 Letter, *supra* note 53.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ See January 24, 2005 Letter, *supra* note 53.

⁵⁸ See *id.*

take out individual leases for their land, they would lose it.⁵⁹ The MLA further reiterated that these actions by the state could undermine any new rounds of negotiations and reiterated that they were in violation of the recommendations of the Inter-American Commission and the Ten Points of Agreement.⁶⁰

In that letter, the MLA requested that negotiations take place within the framework of the recommendations of the Inter-American Commission on Human Rights final report in addition to the Ten Points of Agreement. “In order to implement the Final Report in a timely and principled manner,” the MLA requested that the government:

1. Issue an immediate moratorium on land distribution through grants and leases under either the *National Lands Act* or the *Registered Land Act*, or other mechanisms prejudicial to collective title;
2. Issue an immediate moratorium on the issuance of logging, mining, or oil concessions within traditionally used and occupied territory, this includes, but is not limited to the thirty-eight Maya villages in Toledo;
3. Invite the village council chairpersons and alcaldes to register their village boundaries, including areas traditionally used for harvesting, hunting and gathering, and without prejudice to the form of land ownership within each village; and
4. Aid the MLA in initiating a process designed to educate village residents on their legal property rights, and to ascertain through democratic means how each community wishes to deal with its lands.

Ambassador Assad Shoman responded to the MLA on March 9, 2005. Ambassador Shoman did not specifically respond to any of the MLA’s requests or concerns raised in the January 24 letter.⁶¹ He also expressed that he was “not mandated to conduct negotiations on the Final Report of the Inter-American Commission, or to accept any pre-conditions to the resumption of the negotiations.”⁶²

Accordingly, on April 4, 2005 the MLA again wrote to the Chief Negotiator urging him to reconsider the MLA’s request to suspend all land distribution and development activities in the Maya communities in Toledo.⁶³ Additionally, the MLA reiterated its request that the Prime Minister expand Ambassador Shoman’s mandate to include the implementation of the recommendations of the Inter-American Commission in the negotiations, insisting that “the recommendations in the final report articulate and encapsulate the steps that will need to be taken to secure our rights to our land and its resources,” and stressing that “[t]his compliments the 10 Points of Agreement.”⁶⁴

On May 31, 2005, Assad Shoman informed the MLA that he had discussed the proposed conditions for continuing negotiations with the Prime Minister, and that the Prime Minister had

⁵⁹ See *id.*

⁶⁰ See *id.*

⁶¹ See March 9, 2005 Letter, *supra* note 53.

⁶² *Id.*

⁶³ See April 4, 2005 Letter, *supra* note 53.

⁶⁴ *Id.*

decided to terminate negotiations with the MLA.⁶⁵ Assad Shoman expressed that it was beyond his mandate to negotiate under the recommendations of the Inter-American Commission, since the Prime Minister had only authorized him to negotiate under the Ten Points of Agreement.⁶⁶ The Prime Minister instructed the MLA to conduct any further communications directly to the Deputy Prime Minister, John Briceño.⁶⁷

Since that time, Belize has not communicated with the MLA to continue negotiations or to agree on any specific terms by which the negotiations regarding the implementation of the Commission's recommendations might continue. Instead, the government has continued development activities, and has initiated new activities that threaten irreparable harm to the Maya and their traditional lands. On November 25, 2005, the Maya Leaders' Alliance leadership met with Deputy Prime Minister John Briceño and Minister Michael Espat to discuss land demarcation issues. At this meeting, the government again refused to discuss the Commission's report, stating that the government was not familiar with the report and not willing to discuss its finding.⁶⁸ The government also refused to discuss anything concerning the existence or nature of any substantive rights the Maya communities may have in the lands to be demarcated. It agreed to a "pilot project" of mapping the boundaries of two villages and to suspend all leasing activities in those villages for ninety days. However, less than two weeks later, Minister Espat's son arrived in one of those villages to carry out surveying of lands the government intended to parcel out in the face of protests by the village leaders and in direct violation of the government's promise.⁶⁹

V. BELIZE'S CONTINUED VIOLATIONS OF THE HUMAN RIGHTS OF THE MAYA PEOPLE AND DISREGARD OF THE COMMISSION'S RECOMMENDATIONS

Since the release of the report of the Inter-American Commission on Human Rights, the government of Belize continues to engage acts that are harmful to Maya traditional lands and cultural practices. The harmful acts by the state include: 1) parceling communally held Maya village lands to private individuals, through a system of leasing, in some cases to non-Maya outsiders, and 2) granting logging, oil, and hydroelectric concessions on Maya traditional lands.

a. Distribution of traditional lands to private individuals

The government-sponsored and -promoted distribution of traditional indigenous lands to private individuals constitutes the most immediate threat to the Maya communities of Toledo district. Since the Commission report was published in 2004, the Belize government has carved up communally held Maya lands in Toledo district and parceled out acres to individual owners or lease holders, leaving Maya communities with a significantly diminished land base.

⁶⁵ See May 31, 2005 Letter, *supra* note 53.

⁶⁶ See *id.*

⁶⁷ See *id.*

⁶⁸ See Meeting minutes between the government of Belize and the Maya Leaders Alliance (November 25, 2005).

⁶⁹ See Interview with Conejo Village leader, Mr. Caal _ (December 11, 2005).

The UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities has admonished against these kinds of allotment and parceling schemes, which encourage private ownership and alienation to the detriment of indigenous communal land tenure. It concludes in its preliminary working paper on indigenous peoples and their relationship to land that:

Programs of this sort divide commonly held indigenous land and allot land to individuals or families. These programs invariably weaken the indigenous community, nation or people and usually result in the eventual loss of most or all of the land. The supposed advantages of permitting individuals to use their lands as collateral for loans is in fact outweighed by the almost inevitable loss of land and the resulting overall decline in the resources available to indigenous people. The experience of the Mapuche peoples in Chile during the 1970s and 1980s is a sorrowful example.⁷⁰

The government of Belize has ignored Maya customary land tenure, and has conveyed interests in communally used and occupied Maya lands to private, often non-Mayan individuals. In Crique Sarco there are fifty-one leases and the largest lease is for about 200 acres, which was granted in 2003 to a non-Mayan person. In Pueblo Viejo, there is a grant of 1,150 acres to a non-Mayan individual. This parceling and leasing of village lands interferes with the Maya peoples' traditional way of holding their lands, which is based on use, need, and community control. Leasing of indigenous land to private non-Maya parties disrupts customary practices on the ground, and dispossesses the Mayas of lands that they and their families have farmed for decades.⁷¹

Belize government officials have threatened Maya villagers in an attempt to coerce them into the government's system of land distribution by telling them that if they do not lease their land under current system, somebody else will be granted control over their land.⁷² As one man in San Pedro Columbia village stated, he did not agree with the leasing system, but nonetheless leased a parcel of land "because I was afraid of what would happen otherwise" and because "I thought I would lose my land."⁷³ Without consulting the Maya communities or their leadership, the government of Belize has mandated "compulsory registration areas"⁷⁴ to survey and register Maya land so that it can be leased out to private individuals. At least four Maya villages in the Toledo district fall under the "compulsory registration areas." There is also extensive parceling and leasing of land in villages outside of the compulsory registration areas.

Exacerbating the damage done by this system, the parceled land is being distributed in a discriminatory manner, often under the influence of political factors.⁷⁵ Maya farmers are typically only allowed to lease one 30-acre plot, which is an insufficient amount of land to provide one family's food and sustenance needs. However, non-Maya are receiving much larger

⁷⁰ U.N. Comm. on H. R., Sub-Comm. On Prevention of Discrimination & Prot. of Minorities, *Working Paper: Indigenous people and their relationship to land*, U.N. Doc E/CN.4/Sub.2/1997/17 para. 57 (Jun. 20, 1997) (prepared by Erica-Irene Daes).

⁷¹ Interview with Sylvester Cal, San Pedro Columbia Village (July 19, 2005).

⁷² *See id.*

⁷³ *Id.*

⁷⁴ The purpose of these registration areas is to survey and register the land so that it can be distributed in the form of leases and grants to private individuals. These compulsory registration areas include traditionally held Maya lands, including but not limited to lands within Maya Indian Reserve boundaries.

⁷⁵ *See* Interview with Sylvester Cal, San Pedro Columbia Village (July 19, 2005).

plots with no apparent limits on acreage.⁷⁶ One foreigner has leased an estimated 1,000 acres of indigenous village land in Midway Village, where he has built a home and conducts logging activities.⁷⁷ Though Midway villagers used to farm, hunt, and gather on this land, they now have been told they must ask permission to enter the area.⁷⁸

The leasing system interferes with the Mayas traditional farming methods. Not all of the land within one 30-acre grid plot is fertile or otherwise suitable for farming.⁷⁹ Furthermore, domestic legislation prohibits leases of lands next to creeks and rivers, which is where the Maya plant the traditional *matambe* (mulch crop).⁸⁰ In addition, the immigration of outsiders into Maya villages because of the leasing has brought with it the introduction of non-traditional farming practices, including non-rotational planting methods and the use of chemical fertilizers and pesticides, which contaminate the soil of surrounding village lands, and harm crops planted according to customary agricultural methods.⁸¹

One recent example of the harmful effects of the leasing is in the villages of Aguacate and Blue Creek, where the government of Belize has been attempting to foreclose on a number of loans owed to the Development Finance Corporation (DFC) as a direct result of the Toledo Small Farmers Development Project (TSFDP). The TSFDP was funded by the International Fund for Agricultural Development (IFAD) and was initiated to “improve the income and consequently the standard of living of a group of small, mostly subsistence farmers now living in isolation, by bringing them into modern agriculture.”⁸² To meet its development goal, the TSFDP obtained land leases of 15 to 35 acres for the farmers, and secured loans against those leases.⁸³

The project, while designed to benefit the Maya small farmers economically, was ill conceived and poorly managed. The interim evaluation conducted by the IFAD found that the project lacked adequate management, staff, and monitoring and evaluation structures.⁸⁴ According to interim project evaluations by the IFAD and an independent analysis of the project, as of 2003, twenty-four farmers in Aguacate and Blue Creek Villages owed \$260,000 in overdue loans to the DFC arising from the project.⁸⁵ The DFC has threatened legal action if the farmers do not repay their loans, having retained the farmers’ lease documents since the initiation of the project in the

⁷⁶ See Interview with Frederico Sam, Village Council Chairman, Midway Village (July 14, 2005).

⁷⁷ See *id.*

⁷⁸ See *id.*

⁷⁹ See Interview with Valentino Shal, Punta Gorda Town (July 15, 2005).

⁸⁰ See Interview with Marcelo Cho, San Pedro Columbia Village (July 30, 2005).

⁸¹ See Interview by the Julian Cho Society with members of villagers from Santa Cruz, Santa Elena, San Jose, Pueblo Viejo, and Na Luum Caj Villages, Santa Cruz Village (October 23, 2005).

⁸² Belize: Toledo Small Farmers Development, International Fund for Agricultural Development. Available at: http://www.ifad.org/evaluation/public_html/eksvst/doc/prj/region/pl/belize/r172blbe.htm.

⁸³ See *id.*

⁸⁴ See *id.*

⁸⁵ See Belize: Toledo Small Farmers Development, International Fund for Agricultural Development. Available at: http://www.ifad.org/evaluation/public_html/eksvst/doc/prj/region/pl/belize/r172blbe.htm; JG Thompson, S Nicholas, J Palacio, & R Coupal, *A Policy Analysis of Small Farmers’ Loan Problems in Aguacate and Blue Creek Villages due to the Toledo Small Farmers Development Project, 1989-1995*. Available at: <http://agecon.uwyo.edu/econdev/PubStorage/A%20Policy%20Analysis%20of%20the%20Small%20Farmers%E2%80%99%20Loans%20Problem%20in%20Aguacate%20Village.pdf>.

early 1990s. If the DFC successfully forecloses on these loans, the indebted farmers will lose their lands.

Another threat to the Maya communities' territories in the Toledo District arises from government mandated compulsory registration areas. The Government mandated the creation of compulsory registration areas with a goal to survey, register, and distribute land, in the form of leases and grants of title to private parties without consultation of the affected Maya communities. These compulsory registration areas include traditionally held Maya lands, including but not limited to lands within Maya Indian Reserve boundaries.⁸⁶

At least four villages from Big Falls to Golden Stream along the Southern Highway are currently part of this compulsory registration area. The compulsory registration is occurring without consultation with affected Maya communities, despite the fact that they have claimed rights to these lands through traditional and customary land tenure. Even more egregious than a simple lack of consultation, the state of Belize had demonstrated its awareness that the compulsory registration would be detrimental to the Maya, by providing assurances to the Maya Leaders Alliance that the compulsory registration would not affect the Toledo District – and then went ahead with it regardless.

The above cited events are the latest in a series of actions by the government of Belize that have the effect of undermining Maya claims to and enjoyment of traditionally held lands. The Maya traditional and customary land tenure is ignored, abridged, and undermined by property transfers to third parties, the more difficult it will be to protect the integrity of those lands and consequently the Maya use and occupation of them upon which their physical and cultural survival depends.

b. Logging, oil, and hydroelectric concessions on Maya lands

The government of Belize has continued to grant logging and oil concessions to third parties without seeking or obtaining consent from the Maya villagers. These concessions have detrimental effects on the environment, and interfere with the Maya peoples' traditional subsistence and cultural activities. Known logging concessions already granted by Belize when the petition was filed in 1998 covered almost 500,000 acres in the Toledo District, forty one percent of its total area of 1,162,000 acres.⁸⁷ The area ceded for oil exploration and development purposes at that time was as much as 749,222 acres, or sixty-four percent of the District.⁸⁸ Most of the area covered by these logging and oil concessions includes lands traditionally used and occupied by the Maya people.⁸⁹

Logging and oil exploration continues on Maya lands. This year, US Capital Energy Belize Ltd. sought government permission to conduct seismic surveys within the traditional lands of the

⁸⁶ See Declaration of Registration, *Belize Gazette*, September 15, 2001.

⁸⁷ Petitioner's Request for Precautionary Measures, *supra* note 27, para. 2.

⁸⁸ See *id.*

⁸⁹ See *id.*

Maya people, and without consulting the affected Maya communities.⁹⁰ On November 18, 2005, Gregorio Choc, Spokesperson of the Maya Leaders Alliance, wrote a letter to the Chief Forest Officer of the Ministry of Natural Resources, Forest Department, and the Inspector of Petroleum of the Geology and Petroleum Department, urging them to deny the exploration permit at issue and all future exploration activities of the US Capital Energy Belize Ltd.⁹¹ He stressed that such activities would violate the final report of the Inter-American Commission and the Ten Points of Agreement.⁹² The government has not responded to this request.

Both government-sponsored as well as illegal logging is occurring across traditional Maya lands. Logging has begun in San Pedro Columbia within the last three years, “since the Minister came into power.”⁹³ The people in the community report that people are “logging both secondary and first class logs (mahogany and cedar).”⁹⁴ The people in San Pedro Columbia use the forest for collecting medicine,⁹⁵ roofing and for hunting.⁹⁶ Logging causes the animals to go further into the forest and Maya hunters are forced to travel further to locate wildlife for consumption.⁹⁷ Continued logging has also been reported in Midway.⁹⁸ In mid 2004, a lease was granted to a non-Maya individual over approximately 1000 acres on the south-eastern corner of Midway. This man cut a road into the forest to extract wood, has posted no trespassing signs, and warned Maya villagers not to enter those lands. The logging activity has restricted the Maya peoples’ traditional use of their lands including hunting and fishing. Recently, this individual has applied for a further 1,000 acres of high forest used by Midway and Boom Creek villagers for hunting, and is in the process of extending his road into that area. Another concession to a non-Maya has also been granted in Corazon covering over 1,000 acres of Maya traditional land.⁹⁹ Logging in these areas is occurring without consultation with the affected communities. The logging within the ancestral lands of the Maya people has a direct impact on the environment and on the Maya people’s ability to maintain their livelihood.

In addition to granting third party concessions to extract resources on Maya traditional lands, the government of Belize has granted a concession to the ironically named Hydro Maya Company to initiate a damming project of the Rio Grande River. The Hydro Maya project will particularly adversely affect the village of San Miguel, where the company has gained access to 250 acres of village land on which to conduct its activities, including building access roads for heavy machinery and a powerhouse.¹⁰⁰ The villagers – even the village leaders – have not been informed about the terms by which the Hydro Maya project has gained access to San Miguel village lands, and are apprehensive about how the dam will affect their village once the project is

⁹⁰ See Letter from Gregorio Choc, Coordinator of the Maya Leaders Alliance, to Osmany Salas, Chief Forest Officer Ministry of Natural Resources, Forest Department, and Inspector of Petroleum, Andre Cho, Geology and Petroleum Department (November 18, 2005).

⁹¹ See *id.*

⁹² See *Id.*

⁹³ Juana Cho, Meeting in San Pedro Columbia (July 25, 2005).

⁹⁴ Marcello Cho, Meeting in San Pedro Columbia (July 25, 2005).

⁹⁵ See Juana Cho, Meeting in San Pedro Columbia (July 25, 2005).

⁹⁶ See Marcello Cho, Meeting in San Pedro Columbia (July 25, 2005).

⁹⁷ See *id.*

⁹⁸ See Meeting with Midway Village Council (July 14, 2005).

⁹⁹ See Meeting in Corazon (July 24, 2005).

¹⁰⁰ See Interview with Salvador Cus, Village Council Vice Chairman, San Miguel Village (July 29, 2005).

completed.¹⁰¹ San Miguel villagers use the Rio Grande River for fishing, bathing, and washing purposes.¹⁰² Even the early stages of the damming have affected these traditional practices. Already, because of residual effects of the damming, villagers incur additional costs in order to use other water sources for the village.¹⁰³

Work on the Hydro Maya project is expected to resume full-force imminently.¹⁰⁴ While the ultimate negative effects of the damming project are uncertain at this time, the nature and large-scale scope of this project threaten immediate and irreparable harm to the Maya people of Toledo.

Activity under these concessions granted by the government of Belize threatens the life, health, and well-being of the Maya residents of Toledo; harms their economic development potential; and endangers their cultural integrity.¹⁰⁵ The Mopan and Q'eqchi' Maya, who have the lowest incomes of any ethnic group in Belize, depend on traditional agriculture, hunting and fishing for their subsistence.¹⁰⁶ The actual or potential activities under the logging, oil, and hydroelectric concessions threaten the environment of the Maya communities, an environment upon which they depend for wild and cultivated food crops, medicine, drinking water, housing, and transportation, spiritual experience, and other basic necessities.¹⁰⁷

VI. REQUEST FOR INTERVENTION BY THE SPECIAL RAPPORTEUR

The Maya people in Belize continue to suffer immediate physical, economic, and cultural harm as a result of the events described in this communication. The current actions and omissions by the government of Belize threaten the traditional customs of the Maya communities and the security of Maya ancestral lands and natural resources, which are fundamental to the physical and cultural survival of the Maya people.

Due to the situation that the Maya people of Belize are facing, the Maya Leaders Alliance respectfully requests that the Special Rapporteur reaffirm the recommendations of the Inter-American Commission on Human Rights, and impress upon the government of Belize the need to implement the Commission's recommendations. The Maya Leaders Alliance specifically requests that the Special Rapporteur, through an urgent appeal, call upon the government of Belize to:

- (1) immediately suspend the surveying, registration and granting of traditionally held Maya land by leases to private parties without consulting the affected Maya communities;
- (2) immediately suspend logging, oil exploration, and other natural resource development in Maya territory, and take specific measures to ensure that such activity in fact ceases; and

¹⁰¹ *See id.*

¹⁰² *See id.*

¹⁰³ *See id.*

¹⁰⁴ *See id.*

¹⁰⁵ *See* Petitioner's Request for Precautionary Measures, *supra* note 27, para. 10.

¹⁰⁶ *See id.* at para. 24.

¹⁰⁷ *See id.* at para. 15.

- (3) effectively implement the recommendations of the Inter-American Commission by delimiting, demarcating, and titling the lands of the Maya of Toledo district, in accordance with their customary land tenure and with their participation.

In addition, the Maya Leaders Alliance respectfully requests the Special Rapporteur to conduct an on-site visit to the Toledo District of Belize, pursuant to his mandate, in order to further investigate the facts of this case and to assist, if possible, in negotiations between the Maya of Toledo District and the government of Belize towards an amicable resolution to the problems set forth in this communication.

Finally, the Maya Leaders Alliance asks that the Special Rapporteur inform the Commission on Human Rights and the General Assembly of the failure of Belize to implement the Inter-American Commission's recommendations in his annual report. Specifically, the Maya Leaders Alliance urges the Special Rapporteur to make reference to the continued violations of the human rights of the Maya people by the state of Belize; the inaction of the Belize regarding the implementation of the recommendations of the Inter-American Commission on Human Rights; and Belize's open disregard for international law and international human rights bodies.

List of Appendices

1. Case of Maya Indigenous Communities of Toledo v. Belize, Case 12.053, Inter-Am. C.H.R Report No. 40/04 (2004).
2. Petition to the Inter-American Commission on Human Rights by the Toledo Maya Cultural Council on behalf of Maya Indigenous Communities of the Toledo District, against Belize (August 7, 1998).
3. Petitioner's Request for Precautionary Measures, Case No. 12.053 (October 26, 1999).
4. Supplemental Request for Precautionary Measures and Request for an On-Site Visit, Case No. 12.053 (October 3, 2000).
5. Ten Points of Agreement between the Government of Belize and the Maya Peoples of Southern Belize (October 20, 2000).
6. Letter from Assad Shoman, Minister of National Development and Government Chief Negotiator, to Gregorio Choc, Coordinator of Maya Leaders Alliance (Nov. 29, 2004).
7. Letter from Assad Shoman, Minister of National Development and Government Chief Negotiator, to Gregorio Choc, Coordinator of Maya Leaders Alliance, (Mar. 9, 2005).
8. Letter from Assad Shoman, Minister of National Development and Government Chief Negotiator, to Gregorio Choc, Coordinator of Maya Leaders Alliance, (Apr. 6, 2005).
9. Letter from Assad Shoman, Minister of National Development and Government Chief Negotiator, to Gregorio Choc, Coordinator of Maya Leaders Alliance, (May 31, 2005).
10. Letter from Gregorio Choc, Coordinator of Maya Leaders Alliance to Assad Shoman, Minister of National Development and Government Chief Negotiator, (Jan. 24, 2005).
11. Letter from Gregorio Choc, Coordinator of Maya Leaders Alliance, to Assad Shoman, Minister of National Development and Government Chief Negotiator, (Apr. 4, 2005).