

CONCLUDING REPORT
Dispute Resolution Framework Authority
Rosa Celorio¹
Complaint presented by Laguna village
Belize
July 24, 2020

SUMMARY OF COMPLAINT

1. The complaint was presented by Mr. Francisco Chub, Alcalde, and Mr. Wallace Cucul, Chairperson, of Laguna Village. The complaint alleges that surveying is occurring over lands claimed by the Maya village of Laguna as their customary lands without their consultation and consent. They first became aware of these activities on March 3, 2020. The alleged surveyor is Mr. Sal Marin of Dangriga Town, Stann Creek District. The complainants submitted photos of survey plans and activities on Laguna Lands, included in Annex A of this report.
2. The land that is claimed to be surveyed is along the Laguna Road away from the southern highway. The lands affected are used and occupied by the Laguna Village, for collecting sticks for traditional homes and hunting. A letter has been sent to the Commissioner of Lands expressing concerns over these activities.² The complainants also sent a communication on March 3, 2020 to Mr. Sal Marin and his partners expressing concern over these illegal survey activities within Laguna Village lands and requesting the discontinuation of these activities.³
3. The complaint requests from this authority the following: i) that the Commissioner of Lands revoke any permit issued to Sal Marin and other third parties to survey lands in our village; ii) that the Commissioner of Lands provides Laguna Village with all relevant documents to this case and evidence of the actions he takes to remedy the situation; iii) that this authority treats this report as urgent, so that tension and conflict is avoided; and iv) that the Government of Belize ceases to issue and grant any lease or concession over their lands without our free, prior, and informed consent.

¹ The Office of the Dispute Resolution Authority is grateful for the support of the Maya Peoples, their alcaldes, and representatives, and the state of Belize in the process of collecting the information and documents that made this report possible. It also acknowledges the support provided by GW Law student and research assistant Janina Heller in the information-gathering process.

² Complaint submitted by Laguna Village on March 4, 2020, Annex 4: Letter to Commissioner of Lands and Surveys sent by the Alcalde and Chairman of the Laguna Village, March 3, 2020.

³ Complaint submitted by Laguna Village on March 4, 2020, Annex 3: Letter to Sal Marin & Partners sent by the Alcalde and Chairman of the Laguna Village, March 3, 2020.

PROCEDURAL HISTORY AND ADDITIONAL INFORMATION

4. The complaint was received by the Office of the Dispute Resolution Framework Authority on March 4, 2020. A request for information was sent to the state on June 8, 2020. The response from the state was received on July 2, 2020, and was forwarded to the state.
5. In their compliance report before the Caribbean Court of Justice, on June 1, 2020, the Maya Leaders Alliance, the Toledo Alcaldes Association, and others reported that on March 3rd, 2020, land surveyors entered lands used and occupied by Laguna village, without notice or permission, and began to cut survey lines and plant survey pegs. They have continued to survey despite notice by the village leaders that the land belongs to Laguna village.⁴
6. The state confirmed in its July 2, 2020 response that there is no record of any land given in the Laguna Village.

FINDINGS AND OBSERVATIONS

7. Based on the review of the complaints, the information received by both parties, and the on-site visit, the dispute resolution authority shares the findings and observations below.
8. The complaint in this matter raises concerns over indicia that surveying is occurring over lands used and occupied by the Maya village of Laguna without their consultation and consent. They first became aware of these activities on March 3, 2020. They indicate that Mr. Sal Marin and his partners – third parties - are responsible for these activities. The documentation provided by the state seems to indicate that no authorizations for these survey activities have been granted by the government.
9. Therefore, it is very important that the state investigates these allegations of illegal surveying promptly and exhaustively. The state should act with diligence to prevent any future activities by Mr. San Marin and his associates without the consultation and consent of the Maya village of Laguna. These third-party activities give the villagers in Laguna a sense of insecurity over their lands. They also challenge Laguna village members in their access to needed resources for their livelihood and survival. The survival and integrity of indigenous peoples requires the full recognition by states of their rights to the resources found on their lands and territories on which they depend for their economic, spiritual, cultural, and physical well-being.⁵ The state of Belize should use all reasonable measures

⁴ Compliance report submitted by Appellants Maya Leaders Alliance, Toledo Alcaldes Association, and others before the Caribbean Court of Justice, June 1, 2020, para. 3.

⁵ Article 26, United Nations Declaration on Indigenous Peoples; Inter-American Commission on Human Rights, Report N. 40/04, Case 12.053, Merits, Maya Indigenous Communities of the Toledo District, Belize, October 12, 2004, paras. 145-148, 197 and Recommendation 2. See also, I/A Court H.R., *Case of the Saramaka People v. Suriname*, Preliminary Objections, Merits, Reparations and Costs. Judgment of November 28, 2007, Series C No. 172,

at its disposal to ensure that all Maya villages have access to needed natural resources for their livelihood.

10. It is equally important that the state of Belize conducts comprehensive consultation processes that meet current international human rights law standards before granting any new license, authorization, and concession in any lands used and occupied by the Laguna village. Consultation and consent processes must meet contemporary international human rights law standards to comply with paragraph 4 of the CCJ Consent Order. They should include the following components:⁶

- i) Consultation steps must be undertaken before granting any licenses, concessions, and/or authorizations to third parties over lands used and occupied by indigenous peoples.
- ii) The process should be conducted in good faith, with the intention of obtaining the consent of the Maya peoples.
- iii) The consultation process should respect the self-governance structures of the Maya peoples and the villages at issue.
- iv) There should be sharing of full and comprehensive information of the economic activity at issue, in the appropriate languages.
- v) An adequate time frame should be set for the consultation process, including meetings and agreed upon benchmarks by the parties involved. The Maya Villages are often at a disadvantageous negotiation position in these processes in terms of economic resources and representation. It is important that the consultation process includes confidence-building measures and steps to safeguard the needs and priorities of the Laguna village members and representatives.
- vi) There should be consideration and sharing of benefits related to the project, including those identified by the Maya peoples.
- vii) Adequate documentation should be prepared to reflect consent, in the form of an agreement revised by both parties, and a monitoring and supervision mechanism of proper compliance with this agreement.
- viii) Environmental impact assessments should precede the grant of any licenses and/or authorizations in the lands used and occupied by indigenous peoples.

11. A multi-layered consultation process, geared towards obtaining the consent of the Maya peoples, is absolutely necessary before the government concession of any license, concession, and/or authorization which may impact the use and enjoyment of the Laguna

paras. 123, 141; I/A Court H.R., *Case of the Yakye Axa Indigenous Community v. Paraguay*, Merits, Reparations and Costs, Judgment of June 17, 2005, Series C No. 125, paras. 124, 137; I/A Court H.R., *Case of the Sawhoyamaya Indigenous Community v. Paraguay*, Merits, Reparations and Costs, Judgment of March 29th, 2006, Series C No. 146, paras. 118, 121.

⁶ See, as reference, United Nations Declaration on the Rights of Indigenous Peoples, articles 10, 11, 15, 17, 19, 28, 29, 30, 32, 36, and 38; United Nations Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples, James Anaya, A/HRC/12/34, 15 July 2009, paras. 36-57; I/A Court H.R., *Case of the Saramaka People v. Suriname*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 28, 2007, Series C No. 172, paras. 133-140; I/A Court H.R., *Case of the Kichwa Indigenous People of Sarayaku v. Ecuador*, Merits and Reparations, Judgment of June 27, 2012, Series C. No. 245, paras. 180-211.

village of their lands. This is paramount to achieve full compliance with paragraph 4 of the CCJ Consent Order of 2015.

12. I hope this report will support the government of Belize with useful and constructive guidance to help organize its state structure to comply promptly with paragraph 4 of the CCJ Consent Order.

RECOMMENDATIONS FOR STATE

1. The state of Belize should promptly and exhaustively investigate the surveying activities conducted by Mr. Sal Marin and his associates that are negatively affecting the use and enjoyment by the Laguna village of their lands. These activities should be discontinued in the absence of the appropriate consultation and consent processes with the Laguna village.
2. The grant of any future licenses over the lands used and occupied by the Laguna village should be preceded by a comprehensive and thorough consultation process with the village members and their representatives. These processes should seek the free, prior, and informed consent of the Laguna Village, and include the following elements:
 - i. Consultation steps before granting any license to third parties over lands used and occupied by indigenous peoples.
 - ii. A process undertaken in good faith and with the intention of obtaining the consent of the Maya peoples.
 - iii. Implementation of a consultation process respecting the self-governance structures of the Maya peoples and the villages at issue.
 - iv. Sharing of full and comprehensive information of the economic project at issue, in the appropriate languages.
 - v. An adequate time frame for the consultation process, including meetings and agreed upon benchmarks by the parties involved. It is important that the consultation process includes confidence-building measures and steps to safeguard the needs and priorities of the village members and representatives.
 - vi. The consideration and sharing of benefits related to the project, including those identified by the Maya peoples.
 - vii. The preparation of adequate documentation to reflect consent, in the form of an agreement revised by both parties, and a monitoring and supervision mechanism of proper compliance with this agreement.
 - viii. Environmental impact assessments should be undertaken before granting any licenses for activities which may result in environmental harm.
3. Establish training programs for the Forest Department, Lands Department, the Ministry of the Environment, and other government units on proper consultation procedures for licenses, concessions, and authorizations of economic activities in lands used and occupied by the Maya peoples and the Laguna Village. These training programs should include:
 - i. Information on the CCJ Consent Order of 2015 and its connection to lands claimed by the Maya as part of their customary lands.

- ii. An overview of current international human rights law standards concerning consultation and consent of indigenous peoples before the execution of surveying activities in their lands.

These trainings should also be ongoing and be joined by appropriate accountability mechanisms in cases of non-compliance.

4. The government should adopt guidance in the form of protocols for its government officials and agencies offering a roadmap on the following:
 - i. Steps to properly comply with the CCJ Consent Order of 2015 before the granting of a license, concession, permit and/or authorization to any third party over lands claimed by the Maya as part of their customary lands, including those that are currently privately-held.
 - ii. Required components of consultation and consent procedures with the Maya indigenous peoples to comply with international human rights law.
 - iii. Required components of environmental impact assessments of potential economic activities to be executed over natural resources and lands claimed, used, and occupied by the Maya villages as part of their customary lands.

Comments to the Concluding Report by State and Assistant Solicitor General Samantha Matute – July 30, 2020

Consultation Process

1. There is very advanced *draft* Free Prior and Informed Consent (FPIC) that has been in negotiation with the Maya. Until the FPIC is finalized there will remain contradictory understanding of what should entail the process of consultation and consent. In any event, the Government of Belize (the “Government”) is appreciative of the need to ensure that the consultation process conforms to international standards, and may guide future consultations.

Comments to the Concluding Report on behalf of Laguna Village – July 31, 2020

1. The leaders thank the Authority for accepting their complaint and for thoroughly considering its draft final report.
2. The village thanks the Authority for your guidance on the consultation process necessary for the granting of future licenses over the village.
3. The village leaders would like for the Authority to note that there has been no response to the communications sent in March 2020 to the Commissioner of Lands and Mr. Sal Marin and his partners. The village requests that the Authority provides guidance to the Commissioner regarding communications and consultation with the Maya peoples.

4. We thank the Authority for noting that the government has not provided authorization for the illegal activities. We agree with the Authority that the government should promptly investigate the surveying activities and stop them.
5. The village requests that the Authority suggest the government share the findings of their investigation with us. This will assist us in ensuring the recovering of impacted lands.