



University of Oklahoma College of Law

International Human Rights Clinic

Report on Belize to the 17th Session of the Universal Periodic Review, Human Rights Council, 21 October – 1 November 2013

ANNEX

Prepared by

Students

Ashley Powell, J.D. Candidate 2013
Mallory Carlberg, J.D. Candidate 2013
Kasey Stricklin, J.D. Candidate 2014
Ashley Weyland, J.D. Candidate 2014

Professors

Lindsay Robertson
Taiawagi Helton
Alvaro Baca

March 11, 2013

ANNEX

Annex:

1. In January of 2013, members of the International Human Rights Clinic of the University of Oklahoma College of Law (IHRC-OU) traveled to Belize. Members visited Belmopan, Belize City, Dangriga and Punta Gorda. While in Belize, clinic members visited and spoke with representatives from government, non-governmental organizations, and indigenous communities.

2. Located along the eastern coast of Central America, Belize is bordered by Mexico to the north, Guatemala to the south and west, and the Caribbean Sea to the east. Belize has a surface area of 22,966 square kilometers¹ and is divided into six administrative districts: Corozal, Orange Walk, Belize, Cayo, Stann Creek, and Toledo.² Belize is a diverse country with many ethnic groups and languages. There are two main cities in Belize: Belmopan is the capital where the central government is located,³ and Belize City is a city located on the east coast.⁴ Since the last census in Belize, when a majority of the population lived in cities, the population has shifted to rural areas, where close to 55% of the population lives.⁵ Migration continues to transform the population of Belize, with migrants settling in rural areas, in contrast to the trend of urbanization in other Central American countries.⁶ Belize has an estimated population of 312,698 people in 2010 with an average growth rate of 2.65%.⁷ Much of this growth is due to immigration from

¹ United Nations Statistics Division, World Statistics Pocketbook (2011), Country Profiles: Belize, available at <http://unstats.un.org/unsd/pocketbook/PDF/2011/Belize.pdf> [*hereinafter* UN World Statistics Pocketbook].

² Embassy of Belize, Government of Belize, available at <http://embassyofbelize.org/belize-profile/government.html>.

³ Embassy of Belize, History of Belize, available at <http://embassyofbelize.org/belize-profile/history.html>.

⁴ UN World Statistics Pocketbook, *supra* note 1.

⁵ See Statistical Institute of Belize, Main Results of the 2010 Population and Housing Census, available for download at http://www.statisticsbelize.org.bz/dms20uc/dm_tree.asp?pid=6 [*hereinafter* Belize 2010 Census].

⁶ *Id.* (about 38% of the foreign born population of Belize arrived between 2000 and 2010).

⁷ UN World Statistics Pocketbook, *supra* note 1.

other Central American countries.⁸ The Constitution of Belize contains strong antidiscrimination language that seeks to promote and protect the equal treatment of all persons under the law regardless of “sex, race, place of origin, political opinions, colour or creed.”⁹

3. From 1871 until 1981,¹⁰ Belize was a colony, known as British Honduras.¹¹ Belize declared full independence from Britain on September 21, 1981, but still retains its status as a British Commonwealth.¹² Upon independence, Belize introduced a new governing constitution.¹³ Today, “the Government of Belize is operated on the principles of Parliamentary Democracy based on the Westminster System,”¹⁴ and Queen Elizabeth II is the Constitutional Head of State.¹⁵ The Belizean government consists of three branches: the Executive branch, consisting of the Prime Minister and the Cabinet; the Legislative branch, consisting of a thirty-one-member elected House of Representatives and a twelve-member appointed Senate;¹⁶ and the Judicial branch consisting of a Supreme Court, Court of Appeals, and the English Privy Council, which is the final court in Belize.¹⁷ Belize voted in favor of the UNDRIP and is working to protect all Belizean indigenous peoples in accordance with the aspirations outlined in the declaration.

4. Belize recognizes two indigenous peoples; the Maya and the Garifuna, living in various communities throughout the country.¹⁸ In 2010 the aggregate indigenous population was

⁸ See Belize 2010 Census, *supra* note 5 (about 77% of the foreign born population emigrated from other Central American Countries).

⁹ Belize Constitution, Part II §§ 3, 16, 17, available at http://www.belize-law.org/e_library/constitution_02.html

¹⁰ Embassy of Belize, History of Belize, available at <http://embassyofbelize.org/belize-profile/history.html>.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Belize Attorney General’s Ministry, Over View of the Judiciary System in Belize, available at www.belize-law.org/judiciary.html.

¹⁸ Personal Interview, January 7, 2013, record on file with the University of Oklahoma College of Law.

estimated to be about 16.7% of the population.¹⁹ Each indigenous group has its own language that is recognized by the government, but English is the only official language of Belize.²⁰

5. The state has taken steps toward improving education and medical access but, the failure to recognize the land rights of the Maya is still an ongoing problem. The Belizean Supreme Court recognized the customary land rights of the Maya, but the current government is challenging this ruling.²¹ Additionally, the Inter-American Commission on Human Rights (IACHR) reported, in response to a petition filed by the Toledo Maya Cultural Council, that Belize is violating provisions of the American Declaration on the Rights and Duties of Man by failing to affirm Maya property rights and equality before the law, failing to protect Maya lands and resources, and failing to obtain Mayan consent for any government-approved activities on their traditional lands.²²

I. Education

Best Practices

6. In the 2010-2015 Strategic Plan Belize identified formulating a National Cultural Policy as a priority objective and has engaged in ongoing consultations to further this goal.²³ The government of Belize in 2008 pledged to consult with the people of Belize and develop the National Cultural Policy to identify the link between culture and development.²⁴ The policy

¹⁹ Belize 2010 Census, *supra* note 5.

²⁰ Embassy of Belize, People of Belize, available at <http://embassyofbelize.org/belize-profile/people.html>.

²¹ Jose Sanchez, Mayas From 38 Villages Appear in Appeals Court over Land Rights, News 5 Belize, March 11, 2011, available at <http://edition.channel5belize.com/archives/51006>.

²² Inter-American Commission on Human Rights, Maya Indigenous Communities of the Toledo District, Report No. 40/04, Case 12.053, October 12, 2004, available at <http://www.cidh.oas.org/annualrep/2004eng/Belize.12053eng.htm>.

²³ National Institute of Culture and History, National Culture Policy Working Document, p. 8, <http://www.nichbelize.org/belize-resources/national-cultural-policy-working-document.html>.

²⁴ *Id.* at p. 2.

group examines economic, cultural, and social factors that should be considered in the decision-making process at the national level.²⁵

7. In 2008, the Government launched a program to provide free textbooks for all primary school students nationwide.²⁶ In the 2009 budget, the Government of Belize made important provisions to ensure access to education, including US \$3 million in scholarship grants for the first year of high school and US \$2 million for the supply of textbooks to primary school students.²⁷ The government scholarship program has increased the number of indigenous people who are able to access higher education.

8. Education is compulsory for any person between five and fourteen years of age.²⁸ The Belize Education Act²⁹ prescribes a parental duty to ensure regular class attendance of compulsory school age children who have not completed primary school.³⁰ Under the same act, the Chief Education Officer is empowered to issue a “School Attendance Order” requiring a parent to cause a child to become a registered pupil at a school.³¹ The Act further provides for penalties for non-compliance.³²

Challenges and Obstacles

9. While there are ongoing consultations towards formulating a National Cultural Policy, reporters expressed concern that this process is directed at linking the economy or tourism with

²⁵ Id.

²⁶ National Report Submitted in Accordance with Paragraph 15(A) of the Annex to Human Rights Council Resolution 5/1, A/HRC/WG.6/5/BLZ/1, p. 17 [*hereinafter* UPR National Report 2009].

²⁷ Id.

²⁸ Id.

²⁹ Belize Education Act, Vol. I1, Title V, Chapter 36 (2000), available at <http://www.belizeaw.org/lawadmin/PDF%20files/cap036.pdf>.

³⁰ Id.

³¹ Id.

³² Id.

culture rather than cultural preservation.³³ In this respect, there is a need for greater input of indigenous communities to the process of recognizing the diverse cultural histories of Belize and Government willingness to adopt a culturally sensitive policy following proper consultation.³⁴

10. Although nominally free, education in Belize includes certain user costs.³⁵ Government funding covers 100% of teacher salaries, except in government-aided schools and junior colleges.³⁶ Schools are, however, responsible for other including operation and maintenance costs.³⁷ Such costs are generally passed on to parents though user fees, and schools have discretion to set the amount of fees charged.³⁸ There is no structured fee scale to determine what fees should be charged at individual schools.³⁹

11. Belize has no policy on language, culture, or bilingual intercultural education.⁴⁰ The overall educational system focuses solely on the English language and utilizes teaching methods and lessons that are foreign to the indigenous population.⁴¹ Any real movement towards cultural education reform has been led by the indigenous groups themselves.⁴² The Government has

³³ Sarstoon Temash Institute for Indigenous Management & Minority Rights Group International, Report to the Committee on the Elimination of Racial Discrimination, p. 2, available at http://www2.ohchr.org/English/bodies/cerd/docs/ngos/MRG_SATIIM_Belize81.doc [*hereinafter* STIIM Report to CERD].]

³⁴ *Id.*

³⁵ Belize Ministry of Education, Youth and Sports, Belize Education Sector Strategy 2011-2016: Improving Access, Quality and Governance of Education in Belize, p. 21 (May 2012) available at http://www.moe.gov.bz/index.php?option=com_rubberdoc&view=doc&id=218&format=raw [*hereinafter* Education Strategy].

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ STIIM Report to CERD, *supra* note 33, at p. 2.

⁴¹ *Id.*

⁴² *Id.*

stated that it lacks resources to teach a language that cannot be used everywhere in Belize and that it struggles to fund the national curriculum.⁴³

National Priorities, Initiatives, and Commitments

12. In Belize was one of the first countries to ratify the Convention on the Rights of the Child in May 1990,⁴⁴ article 28 of which requires that primary education shall be free and compulsory.⁴⁵

13. Belize has undertaken an Education Sector Strategy 2011-2016 titled “Improving Access, Quality, and Governance of Education in Belize,” which was issued by the Ministry of Education and Youth.⁴⁶ The strategy outlines a number of focus areas and policy objectives, including increasing equitable access to all levels of education.⁴⁷

14. Belize laws relating to education are in the Education Act, most recently amended in 2000.⁴⁸ The Act includes the parental duty to have their child educated, the non-discrimination policy of the education system, and scholarship policies.⁴⁹

15. A full member of the United Nations Education, Scientific and Cultural Organization (UNESCO),⁵⁰ Belize established a National Commission for UNESCO in 1984.⁵¹ Belize is a state party to several UNESCO conventions, including the convention concerning the Protection

⁴³ Personal Interviews, January 9, 2013. Interview on file with the University of Oklahoma College of Law.

⁴⁴ UPR National Report 2009, A/HRC/WG.6/5/BLZ/1, p. 9.

⁴⁵ Convention on the Rights of the Child, Article 28, <http://www.unhcr.org/refworld/docid/3ae6b38f0.html>.

⁴⁶ See generally Education Strategy, *supra* note 35, at p. 1.

⁴⁷ *Id.* at p. 22.

⁴⁸ See generally Belize Education Act, Vol. I, Title V, Chapter 36 (2000), available at <http://www.belize-law.org/lawadmin/PDF%20files/cap036.pdf>.

⁴⁹ *Id.*

⁵⁰ UPR National Report 2009, A/HRC/WG.6/5/BLZ/1, p. 10.

⁵¹ UNESCO.org, Belize National Commission for UNESCO, available at <http://www.unesco.org/nac/geoportal.php?country=BZ&language=E>.

of the World Cultural and Natural Heritage.⁵² In 2001, UNESCO proclaimed the Garifuna language, dance, and music as Masterpieces of Intangible Heritage.⁵³

Expectations in Terms of Capacity-Building and Technical Assistance

16. In the last round of the Universal Period Review, Belize expressed the view that ongoing human rights education is necessary in both the public and private sectors in order to strengthen understanding of human rights and the practical application thereof.⁵⁴ The State identified the need for further capacity building at both technical and policy levels in order to ensure that a rights-based approach is applied throughout decision-making and planning processes. The Government also recognized that such assistance is needed in all branches of government, but especially for frontline agencies to better identify and address the needs of victims of human rights abuses.⁵⁵

17. Belize articulated the need for technical assistance in several areas, including human rights education and human rights monitoring.⁵⁶ The State expressed confidence that sustained and effective human rights campaign, accessible to all, could be developed with technical assistance.⁵⁷ Specifically, Belize would benefit from assistance in implementing a manageable system of data collection in order to more effectively monitor the impact of measures in place to promote and protect fundamental human rights and fundamental freedoms.⁵⁸

II. Health

Best Practices:

⁵² UPR National Report 2009, A/HRC/WG.6/5/BLZ/1, p. 10.

⁵³ *Id.*

⁵⁴ *Id.* at p. 17.

⁵⁵ *Id.*

⁵⁶ *Id.* at p. 18.

⁵⁷ *Id.*

⁵⁸ *Id.*

Access to Health Care

18. The State has established satellite clinics in the Stann Creek and Toledo Districts to increase access to and improve quality of health care for rural populations.

19. Belize intends to establish a system of national health insurance and in 2003 implemented a National Health Insurance pilot program aimed at reaching poor and vulnerable populations in Belize City.⁵⁹ Belize has not expanded the program beyond Belize City.

Maternal and Infant Health

20. In 2011 the Ministry of Health began implementing a project funded by the Japanese Social Development Fund intended to improve the health of indigenous children in the Toledo District. One focus is on increasing access and improving community-based health services to support maternal health. Another focus is on decreasing rates of anemia, worm infestation, and malnourishment in children.⁶⁰

21. In an effort to implement the Sexual and Reproductive Health Policy, Belize is offering contraceptive services in private and public health clinics and through the Belize Family Life Association, a sexual and reproductive health non-governmental organization. Sexual and reproductive health information is now part of the health and family life curriculum for primary and secondary schools countrywide. Public education campaigns on sexual and reproductive health are also ongoing.

HIV/AIDS

⁵⁹ Belize Ministry of Health, National Health Insurance, available at: <http://health.gov.bz/www/health-projects/national-health-insurance>.

⁶⁰ The World Bank, A Healthier Lifestyle for Indigenous Women and Children in Belize (2011) available at <http://www.worldbank.org/en/news/feature/2013/01/24/Belize-Toledo-health-indigenous-women-children-mopan-qechi-mayas>.

22. In Belize City, the State implemented the “Together We Can” HIV/AIDS program in 2004 and recently expanded this program into other districts.⁶¹ The program uses peer-based education to disseminate HIV/AIDS information. The Belize Red Cross, a partner in the Global Fund Project, initiated the program and, in cooperation with the government, continues to make revisions relevant to present-day youth.

23. Belize recently revised the threshold for providing anti-retroviral drugs to HIV/AIDS patients. By increasing the threshold from 350 cells/cm³ to 500 cells/cm³, the State expanded the population qualified to receive anti-retroviral therapy.⁶²

Challenges and Obstacles:

Access to Health Care

24. The United Nations Children’s Fund (UNICEF) states that national averages conceal serious hardships endured by poor communities because it is offset by the wealth of others.⁶³ Consequently, unequal treatment of indigenous communities is difficult to ascertain because statistics are compiled at the national level. Belize lacks resources to collect data disaggregated by ethnicity and track information over long periods. The government has requested funding and technical assistance to compile disaggregated data and comply with reporting requirements of UN instruments.

⁶¹ United Nations Development Programme in Belize, *Combat HIV/AIDS, Malaria and Other Diseases: Where we are, 2012 update*, available at <http://www.bz.undp.org/content/belize/en/home/mdgoverview/overview/mdg6> [*hereinafter* UNDP 2012 Update Belize].

⁶² Belize Ministry of Health, *HIV/AIDS Statistical Report 2011*, p. 5-6, available for download at <http://health.gov.bz/www/publications/hiv aids/646-hiv aids- statistical- report-2011> [*hereinafter* Belize HIV/AIDS Statistics].

⁶³ UNICEF, *The State of the World’s Children 2012: Children in an Urban World*, p. iv, available for download at <http://www.unicef.org/sowc2012/fullreport.php>.

25. Though significant funding has been allocated to healthcare, there is insufficient data to track the effectiveness of these resources. Further, parties have reported that these resources have been directed elsewhere.⁶⁴

26. Insufficient transportation is a significant obstacle to healthcare delivery in rural areas, particularly burdening indigenous communities. The majority of Maya and a large part of the Garifuna live in rural areas where the dirt roads can be inaccessible. When roads are accessible, the nearest primary care provider or hospital can still be hundreds of miles away. Transportation costs contribute to higher health care costs for indigenous peoples.

27. The location of health facilities and services is skewed towards the urban centers. The districts of Stann Creek and Toledo have one hospital each located in the major cities of Dangriga and Punta Gorda, respectively. The satellite clinics Belize has built to serve rural areas are understaffed and lack resources.

28. A shortage of trained medical professionals, particularly nurses at the primary care level, is another barrier to delivery of quality health care especially in remote areas.⁶⁵ There are no neonatologists in the country and insufficient staff and medical equipment to provide sufficient tertiary care. A large concentration of health personnel are located in the District of Belize, where more than half of the health staff is employed (54% physicians, 52% practical nurses, and 57% professional nurses) making the disparities to quality treatment and access unequal in a variety of ways.⁶⁶ The government does not appear to be identifying and training individuals

⁶⁴ Personal Interview, January 8, 2013, Interview on file with OU College of Law.

⁶⁵ Carrol A.M. Smith & Carrie Klima, A Country Report on Women's Health: Belize, Central America, University of Illinois at Chicago College of Nursing, 2006, available at <http://www.uic.edu/nursing/ghlo/forms/ACountryReportWomen%27sHealthinBelizeFINAL2.doc>.

⁶⁶ Pan American Health Organization (Regional Office of the World Health Organization), PAHO Basic Health Indicator Data Base: Belize Health Situation Analysis and Trends Summary, available at http://www.paho.org/english/dd/ais/cp_084.htm [*hereinafter* PAHO Health Data Base].

within indigenous communities, who would remain in those communities, providing basic medical services at minimal cost.

29. Moreover, hours of operation for each clinic are not effectively communicated, creating additional burdens for patients who struggle to reach the clinic only to find it closed.⁶⁷

30. There is a disconnect between health professionals and the Maya. Health professionals can have no language in common with their patients. Cuban doctors, some of whom only speak Spanish, work in Belize as a result of reciprocal agreements with Cuba.⁶⁸ Stereotypes of the people as backwards also still exist.⁶⁹ Consequently, hospitals do not provide space for patients to consult with traditional healers.

31. There has been little consultation with the Maya on their health needs and the best ways to deliver those needs.⁷⁰ For instance, the Japanese Social Development Fund Project, currently being implemented by the Ministry of Health and World Bank, has a goal of extensive consultation, community involvement, and an embracement of indigenous practices and beliefs in improving the health of children in the Toledo district, yet Maya communities report that, so far, there has been little consultation.⁷¹ Further when consultation occurs, it tends to be unilateral rather than cooperative. The Maya best know what will serve their communities and meaningful listening, communication, and implementation by the government would go far in advancing health goals.

⁶⁷ Personal Interview, January 8, 2013, Interview on file with the University of Oklahoma College of Law.

⁶⁸ Carrol A.M. Smith & Carrie Klima, A Country Report on Women's Health: Belize, Central America, University of Illinois at Chicago College of Nursing, 2006, available at <http://www.uic.edu/nursing/ghlo/forms/ACountryReportWomen%27sHealthinBelizeFINAL2.doc>.

⁶⁹ Personal Interviews, January 8, 2013. Interviews on file with the University of Oklahoma College of Law.

⁷⁰ Id.

⁷¹ Id.

32. Fixed clinic hours that do not align with Mayan needs or accommodate travel times contribute to disparities in healthcare access. While Maya communities have requested expanded or shifted clinics hours, no response appears to have been given.⁷² Moreover, hours of operation for each clinic are effectively communicated, creating additional burdens for patients who struggle to reach the clinic only to find it closed.⁷³

33. The indigenous communities are among the most cash-poor in the country. Travel, medicinal, and follow up care costs can be prohibitively expensive. Even though a pilot program for a National Health Insurance was implemented in Belize City in 2001, it has not expanded beyond Belize City despite a stated goal of expanding the program to the rest of the country.⁷⁴

34. Private health insurance is limited in Belize but has increased rapidly during the past two decades. Many of the insurance companies are affiliates of large international firms, making the health insurance nearly unattainable for cash-poor communities.⁷⁵

Reproductive and Infant Health

35. Mayan women can feel pressure to marry early, stay in the home, and raise a family. Some in the communities do not feel it is a woman's place to participate in public life, such as attend public meetings and make family planning decisions.⁷⁶ This has impeded efforts to increase contraception access and use.

HIV/AIDS

⁷² Id.; PAHO Health Data Base, *supra* note 68.

⁷³ Personal Interviews, January 8, 2013. Interviews on file with the University of Oklahoma College of Law.

⁷⁴ Belize Ministry of Health, National Health Insurance, available at: <http://health.gov.bz/www/health-projects/national-health-insurance>.

⁷⁵ Id.

⁷⁶ Personal Interviews, January 10, 2013. Interviews on file with the University of Oklahoma College of Law.

36. Poverty remains a problem in combating the spread of HIV/AIDS. There is a need to increase HIV/AIDS prevention initiatives in rural areas and among indigenous groups.⁷⁷ In particular, there is a need to link HIV and poverty-alleviation in the most affected areas of the city and country.⁷⁸ Adherence to medication regimes— essential to disease prevention— continues to be a challenge, as persons living with HIV do not have access to proper nutrition or, due to travel distance, are unable to access their medications on time.

37. Indigenous peoples infected with HIV/AIDS face increased stigmatization and discrimination because of the lack of education and insufficient public awareness regarding the disease.⁷⁹ Many of the education programs to eliminate the discrimination and stigmatization regarding the disease are not reaching the rural areas. Because stigmatization and discrimination are still prevalent, people who test positive for HIV may not access treatment or even acknowledge they have the disease. Such discrimination and stigmatization limits the effectiveness of education and treatment programs, allowing the disease to spread in the most remote areas.⁸⁰ The “Together We Can” life skills training project has expanded to four districts, including the Stann Creek District, to raise public awareness and education through peer training. However, the project has yet to reach the Toledo District.⁸¹

National Priorities, Initiatives, and Commitments:

Access to Health Care

⁷⁷ UNAIDS, Global AIDS Country Progress Report: Belize, March 31, 2012, available at [http://www.unaids.org/en/dataanalysis/knowyourresponse/countryprogressreports/2012countries/ce_BZ_Narrative_Report\[1\].pdf](http://www.unaids.org/en/dataanalysis/knowyourresponse/countryprogressreports/2012countries/ce_BZ_Narrative_Report[1].pdf).

⁷⁸ *Id.*

⁷⁹ UNDP 2012 Update Belize, *supra* note 61.

⁸⁰ Personal Interview, January 8, 2013, Interview on file with the University of Oklahoma College of Law.

⁸¹ UNDP 2012 Update Belize, *supra* note 61.

38. Belize has invited Peace Corp workers to staff and provide services in the satellite clinics to provide services to rural and indigenous populations.⁸²

39. Belize has instituted reform strategies and programs in the health sector. The reform has three components: (i) sector restructuring and strengthening the organizational and regulatory capacity of the central and regional level of the public sector, which will strengthen the stewardship and regulatory role of the Ministry of Health; (ii) services rationalization and improving the coverage and quality of services to the public and private sectors by restructuring public facilities, purchasing selective services from the private sector to support the public supply; and (iii) establishment of a pilot National Health Insurance program.⁸³

Reproductive and Infant Health

40. Belize formally adopted UN Millennium Development Goals (MDGs) to reduce child mortality and improve maternal health and is on track to meet both goals by 2015.

41. The National Gender Policy was created in 2002 and the Women's Commission reviewed it in 2009. The policy lists reproductive health, teen fertility rates, rates of anemia in pregnant women, prevention of unwanted pregnancy, and cervical cancer screenings as priorities.

42. In 2002 Belize created the Sexual and Reproductive Health Policy, which states commitments to ensure universal access to contraceptive information, strengthen reproductive and sexual health education in schools, develop and implement programs aimed at preventing early pregnancy, strictly enforce the legal age of marriage, and provide quality post-abortion care.

43. In 2009, Belize adopted the Companion at Birth Policy where every pregnant woman in Belize is allowed a family member or doula in the delivery room to provide non-clinical,

⁸² Personal Interview, January 10, 2013, Interview on file with the University of Oklahoma College of Law.

⁸³ PAHO Health Data Base, *supra* note 68.

emotional support. According to the policy, studies show that having a trained birth companion contributes improved health outcomes for both the woman and infant.

HIV/AIDS

44. Belize formally adopted the MDGs to reverse the spread of HIV/AIDS, Malaria and Tuberculosis.⁸⁴ Belize has made progress towards its 2015 MDGs by reducing the spread of HIV/AIDS and other communicable diseases. There is insufficient data to determine infection rates within indigenous communities.

45. Belize established the National AIDS Commission in 2000 to coordinate the national response to the HIV/AIDS epidemic.⁸⁵ This Commission continues to coordinate the implementation of the national HIV/AIDS strategic plan, HIV/AIDS policies, and mobilization of resources.⁸⁶

46. Belize prioritizes reducing the spread of HIV/AIDS. Transmission rates have decreased⁸⁷ but the spread of HIV/AIDS has not halted entirely, and therefore has not met the Millennium Development Goal set for 2015.⁸⁸ Belize has expanded programs into Stann Creek District, where there is a large population of Garifuna, to increase communication and reduction of the disease. The prioritization of this program has resulted in Belize's participation in the Global Consultation in National AIDS Responses,⁸⁹ amendment of the necessary T-cell level for access

⁸⁴ UNDP 2012 Update Belize, *supra* note 61.

⁸⁵ UPR National Report 2009, A/HRC/WG.6/5/BLZ/2, p. 8.

⁸⁶ *Id.*

⁸⁷ Belize HIV/AIDS Statistics, *supra* note 62, at p. 12.

⁸⁸ MDG Monitor (United Nations Initiative), Millennium Development Goal No. 6: Combat HIV/AIDS, Malaria and Other Diseases, available at <http://www.mdgmonitor.org/goal6.cfm>.

⁸⁹ United Nations Development Programme in Belize, Belize Participates in Global Consultation on National AIDS responses, May 11, 2011, available at <http://www.undp.org/content/belize/en/home/presscenter/pressreleases/2011/05/11/belize-participates-in-global-consultation-on-national-aids-responses/>.

to Government-provided anti-retroviral drugs,⁹⁰ and development and distribution of National HIV Treatment Guidelines.⁹¹ The Women's Health Commission screens mothers for HIV/AIDS to catch and reduce transmission from mother to infant by putting all infected mothers and their newborns on free anti-retroviral drugs. This coverage has expanded to all areas of the country.

47. Belize has increased its focus on educating the population about HIV/AIDS, including in areas with high indigenous populations. Belize continues its efforts in public education and awareness by continuing to utilize all avenues to raise awareness.⁹² These avenues include policies on condom use, TV and billboard advertisements, and educational pamphlets on HIV/AIDS in all health related facilities and on the Ministry of Health's website. In 2006, Belize adopted a National AIDS policy and a National AIDS in the Work Place policy to educate people on all aspects of the disease and to diminish discrimination and stigmatization associated with the disease. Belize has continued and broadened the implementation of the "Together We Can Program" in more than one administrative district.⁹³

48. The Ministry of Health's National HIV Program collaborated with the Center for Disease Control and Prevention, Central America to conduct a Behavioral Survey Study to help identify vulnerable groups and the behavior associated with increased risk of HIV infection.⁹⁴

Expectations in terms of capacity-building and technical assistance:

Access to Health Care

⁹⁰ Belize HIV/AIDS Statistics, *supra* note 62, at p. 12.

⁹¹ Ministry of Health, National HIV Treatment Guidelines: Clinical Management Guidelines for HIV/AIDS, July 2012, available for download at <http://health.gov.bz/www/publications/hiv aids/667-national-hiv-treatment-guidelines>.

⁹² UPR National Report 2009, (A/HRC/WG.6/5/BLZ/1, p. 13.)

⁹³ United Nations Development Programme in Belize, Belize Reduces Incidence of HIV AIDS and Focuses on Most at Risk Populations, available at http://www.bz.undp.org/content/belize/en/home/ourwork/hiv_aids/successstories/belize-reducees-incidence-of-hiv-aids-and-focuses-on-most-at-risk.html.

⁹⁴ Ministry of Health, Ministry of Health Release Findings From BSS Survey, available at <http://health.gov.bz/www/past-a-upcoming-events/691-ministry-of-health-release-findings-from-bss-survey>.

49. Belize has developed many bilateral agreements for technical cooperation. The Inter-American Development Bank (54.06%), the Caribbean Development Bank (26.02%), the European Union (8.83%), and the Government (11.09%) finances the Health Sector Reform project. There are agreements with the Governments of Cuba and Nigeria for the provision of health professionals to work in Belize. There are four UN Agencies in Belize (UNDP, UNFPA, UNICEF and PAHO/WHO) which continuously support the National Health Agenda.⁹⁵ Belize needs to continue to develop and focus on these agreements so funding and technical cooperation remain high.

Reproductive and Infant Health

50. The government has built satellite clinics to increase access to health care in rural areas. However, because the clinics are understaffed and underfunded, health care providers are not able to reliably deliver needed services. The Dangriga clinic has mobile health units, which claim to provide post natal and prenatal care for pregnant women and go to most villages. There is a primary care clinic in Punta Gorda. Services include obstetrics, maternal and child health, family planning, and detection and screening of cervical cancer.

HIV/AIDS

51. Funding from the UN and many other international organizations would help to reduce many of the problems faced by the country. Funding could allow Belize expand the “Together We Can” program to all districts of Belize, and diminish discrimination and stigmatization of infected peoples through education. Funding could also help Belize gather and track the statistical information needed to meet its reporting obligations.

⁹⁵ PAHO Health Data Base, *supra* note 68.

52. Belize is a principal recipient of the Global Fund Round 9 Grant, which aids implementation of educational programs aimed at raising HIV/AIDS awareness and diminishing HIV stigma. The continuation of this grant remains necessary.

III. Maya Land Rights

Best practices:

53. Belize has a statutory system in place to facilitate the purchase of national lands from the Government.⁹⁶ Under this system, individuals apply with the Department of Land Management for a parcel of land generally or request certain parcels if they choose.⁹⁷ The Government then processes the application and determines what parcel of land to sell to the individual and for what price.⁹⁸ This system does not, however, take into consideration whether or not the individual has been living or working on the land in question. Therefore, if forced to work within this system, the Maya would be purchasing land where they already have customary land rights.

54. The Government of Belize signed a loan agreement with the Inter-American Development Bank (IDB) on November 16, 2009, in the amount of USD \$2,500,000 to finance the execution of the Land Management Program Phase III (LMP III). The Project is for a period of three (3) years and is in its final stage of development. The objective of this Program is to consolidate and expand land management services nationwide, by improving quality, efficiency, and access to all Belizeans. This program focuses on the need for an integrated information system that consolidates land information in four urban areas (Orange Walk Town, Belize City, San Ignacio/Santa Elena, and Dangriga) and creates a methodology for surveying and mapping community lands.

⁹⁶ Belize, National Lands Act, Volume IV, Title XVI, Chapter 191, available at www.belizelaw.org/lawadmin/PDF%20files/cap191.pdf.

⁹⁷ Id. at §§ 9, 13.

⁹⁸ Id.

55. The Government of Belize signed a loan agreement with the International Bank for Reconstruction and Development (IBRD) on December 2, 2010, in the amount of USD \$15,000,000 to finance the Municipal Development Project.⁹⁹ The project is for a period of five (5) years and seeks to improve municipal infrastructure including water, sanitation, roads and highways. The project has three main components: (1) small scale municipal infrastructure investments focusing on drainage and traffic management; (2) capacity building for town councils by focusing on improving revenue collection, council accountability, financial management, and community participation; and (3) technical assistance to central government in municipal management by strengthening town relationships with the central government, which seeks to facilitate the land/title registration system.¹⁰⁰

56. The Municipal Development Project not only seeks to facilitate land registration, it also acknowledges value in customary land rights. Pursuant to this project, the Government of Belize developed the Land Acquisition and Involuntary Resettlement Policy Framework for the purpose of compensation, relocation and rehabilitation of those displaced by community and municipal projects.¹⁰¹ This framework specifically acknowledges the Belizean Constitution's mandate that market value be paid for lands compulsorily acquired and that this compensation is not limited to those having "good or proper documentary title."¹⁰²

Challenges and obstacles:

⁹⁹ See The World Bank, Municipal Development Overview, available at <http://www.worldbank.org/projects/P111928/municipal-development?lang=en>.

¹⁰⁰ The World Bank, Project Information Document (PID) Concept Stage, available at <http://documents.worldbank.org/curated/en/2009/01/10583656/belize-municipal-development-project>.

¹⁰¹ Belize Municipal Development Project, Land Acquisition and Involuntary Resettlement Policy Framework, p. 14, February, 15, 2010, available at http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2010/06/10/000333037_20100610014235/Rendered/PDF/RP9670P11192801LCR1R1P1119281pdf.pdf. [*hereinafter LAIRPF*]

¹⁰² *Id.*

57. The Supreme Court of Belize held that the Maya had customary land rights in 2007;¹⁰³ however, the Government narrowly interpreted that holding to apply only to the two communities that had filed claims in 2007.¹⁰⁴ In 2008, the Maya filed a second case seeking to apply the holding of *Maya Land Rights I* to all Maya communities, so that the government would have to recognize the customary land rights of all Maya and not just those living in the villages of Santa Cruz and Conejo.¹⁰⁵ In the *Maya Land Rights II* case, the Supreme Court of Belize reaffirmed the holding from *Maya Land Rights I* and extended that holding to all Maya communities in the Toledo district.¹⁰⁶

58. Though Belize stated in the Addendum to the UPR Report of the Working Group that it would respect the decision of its own Supreme Court's decision on the matter of *Maya Land Rights II*,¹⁰⁷ the Government has since continued to fight Mayan attempts to claim any real right to the land where they live. The Government is in the process of appealing the *Maya Land Rights II* case.¹⁰⁸

59. The *Maya Land Rights II* decision cited the Belize Constitution as a source of the indigenous right to land. Sections 3, 16 and 17 of the Belize Constitution declare the right to be free from discrimination, bans discriminatory laws and treatment, and defines requirements for compulsory taking of land, respectively.¹⁰⁹ The Court explained that in order to comply with these requirements, the government must “create an effective mechanism to identify and protect

¹⁰³ See *Cal et al. v. Attorney General of Belize and Coy et al. v. Attorney General of Belize*, Consolidated claims 171 and 172 of 2007, ¶ 136 18 October 2007, (*Maya Land Rights I*).

¹⁰⁴ *Maya Leaders Alliance et al v. Attorney General of Belize, et al.*, Claim number 366 of 2008, ¶ 25, 28 June 2010 (*Maya Land Rights II*).

¹⁰⁵ *Maya Land Rights II*, ¶¶ 19–20.

¹⁰⁶ *Maya Land Rights II*, ¶ 136

¹⁰⁷ Report of the Working Group on the Universal Periodic Review: Belize Addendum, A/HRC/12/4/Add.1 at 7.

¹⁰⁸ *Maya Land Rights Appeal Hearing Begins*, Amandala.com, available at <http://amandala.com.bz/news/maya-land-rights-appeal-hearing-begins/>.

¹⁰⁹ Belize Constitution, Part II §§ 3, 16, 17.

Maya customary property rights in land in accordance with Maya customary laws and land tenure practices.”¹¹⁰

60. Even though the Maya Land rights cases were decided in 2008 and 2010 respectively, there is still no framework for allocating those land rights.¹¹¹ Moreover, no meaningful consultation with the community has taken place since February 2008 when the majority party in Belize changed and a new Prime Minister was selected.¹¹²

61. It is also still unclear whether the land will be registered; whether the community or individuals will be record owners.¹¹³ The Land Acquisition and Involuntary Resettlement Policy Framework (LAIRPF) does acknowledge that, pursuant to the *Maya Land Rights I* case, the Maya hold communal title, “entitling the members of the community to occupy [and] use the land . . . in accordance with Maya customary law and usage.”¹¹⁴ Moreover, the LAIRPF states, “Maya customary land tenure . . . constitutes ‘property’ under the Constitution.”¹¹⁵ However, there have been no attempts to implement or record these rights. The Government has only acknowledged that the Supreme Court came to this conclusion but challenges the ruling.

62. There have been two frameworks proposed by members of Maya communities to implement and recognize Maya customary land rights. Adopting either approach would allow individuals to enjoy the benefits of ownership, like negotiating for compensation with natural resource exploitation organizations and companies, while maintaining the community

¹¹⁰ *Maya Land Rights II*, ¶ 126.

¹¹¹ Personal Interview, January 8, 2013, record on file with the University of Oklahoma College of Law.

¹¹² See Personal Interview, January 10, 2013, record on file with the University of Oklahoma College of Law.

¹¹³ Personal Interview, January 8, 2013, record on file with the University of Oklahoma College of Law; see also Chika B. Onwuekwe, *The Commons Concept and Intellectual Property Rights Regime: Whither Plant Genetic Resources and Traditional Knowledge?* 2 *Pierce L. Rev.* 65, 70-72 (defining communal property as “property or resource jointly owned by a community”).

¹¹⁴ LAIRPF, *supra* note 101, at p. 14.

¹¹⁵ *Id.*

management and preventing outsiders from moving into the community or disrupting customary practices. First, Belize already has a communal ownership system in place for Mennonite communities in Belize.¹¹⁶ Not only do the Mennonite communities enjoy a certain amount of autonomy, they also own their land communally.¹¹⁷ Under the Mennonite land management scheme, the community allocates the land among individual owners, but if the individual wishes to sell the land they must sell it back to the Mennonite community.¹¹⁸ Second, one community leader suggested that a land management team for each town could be responsible for allocating individual parcels of collectively owned land.¹¹⁹ The team would be comprised of at least four members, including the town's alcade and one government representative.¹²⁰ This team would be able to manage the lands as a whole and allocate individual plots to community families.¹²¹ Because either scheme would serve the traditional land use needs of the Maya, it is unimportant which system is implemented so long as the Maya make the choice. The UNDRIP's aim is to ensure consultation and participation of indigenous communities rather than a particular land tenure system.

63. There has been little to no consultation between the Government and the Maya regarding their land rights.¹²² The Government, though not necessarily directly involved, has allowed oil companies to attempt to bypass the consultation process altogether and manipulate the decision making process. Recently, instead of approaching the communities as a whole, the oil companies and government officials have sought out influential individuals and given those individuals

¹¹⁶ Personal Interview, January 8, 2013, record on file with the University of Oklahoma College of Law; see also Onwuekwe, *supra* note 113, at 70-72.

¹¹⁷ Personal Interview, January 8, 2013, record on file with the University of Oklahoma College of Law.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

benefits so they will support the oil exploration project and influence the rest of the village, the members of which will not receive the same benefits.¹²³ In the most recent alcade presidential election, companies tried to buy votes from the alcades.¹²⁴ Additionally, there were reported attempts to interfere with those elections through company-funded campaigning—not a part of the traditional alcade election process—in order to replace the current alcade president, who had resisted oil company pressure.¹²⁵ Having failed to replace that president, attempts to influence him with bribes now reportedly have transitioned into threats.¹²⁶

64. Additionally, any consultation that has been attempted has been cursory and unilateral. There has been a general lack of political will of the State to allow the Maya to self-determine.¹²⁷ Though the Government has provided community leaders with information regarding the proposed oil exploration, they have not allowed those leaders time to translate and explain that information for the community as a whole so that they can collectively decide what is best for the community. This demonstrates the Government's disregard for the traditional decision making processes in Maya communities. For example, after a two-and-a-half hour government presentation in conjunction with Capital Energy Ltd., police officials forcibly stopped a Maya leader from speaking after only two minutes.¹²⁸

National priorities, initiatives and commitments:

65. Though prior Governments have indicated their willingness to respect these land rights in the past, it appears that there are no current initiatives or commitments to further this goal.

¹²³ Id.

¹²⁴ Id.

¹²⁵ Id.

¹²⁶ Id.

¹²⁷ Id.

¹²⁸ Id.

66. The Government appears to be committed to the development of the oil and gas reserves that have been discovered in the Toledo District and has authorized exploration in the area.¹²⁹ However, there has been little effort to incorporate Maya community leaders into the process of approving and negotiating the terms of this exploration. The failure to incorporate the Maya in the negotiation process implicates the Government's obligation under the UNDRIP, Article 32, to meaningfully consult with indigenous peoples before approving any project affecting indigenous lands or territories without obtaining free, prior, and informed consent.¹³⁰ Without incorporation of the Maya, who will be directly affected by any natural resource extraction in the area, they will suffer the environmental consequences without reaping any benefits for their community.

67. The Government has not always been resistant to Maya participation. There has been a plan in the past to allow Maya communities to participate with the government in the oil and gas exploration through a 2% working interest in any wells. This plan failed, however, because it was not feasible for the Maya: before receiving any income from the exploration, they would have to pay 2% of the costs of the exploration and most communities have few liquid assets necessary for that type of participation.

68. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) explains and defines indigenous peoples' right to land. These rights include the right to land occupation, use, development and control and the State's obligation to give legal recognition and protection to those lands.¹³¹ Indigenous peoples also have the right to have their lands conserved and the

¹²⁹ Id.

¹³⁰ UNDRIP, Article 32.

¹³¹ UNDRIP, Article 26.

environment protected with the assistance of the State.¹³² To enforce these rights, the UNDRIP declared indigenous peoples' right to remedies when lands have been used or taken without free, prior and informed consent.¹³³ Additionally, the State has a duty to create a system to recognize and adjudicate indigenous peoples' land rights and to include indigenous peoples in the process.¹³⁴ It should be noted that Belize voted in favor of the adoption of the UNDRIP in the General Assembly.¹³⁵

69. In the absence of a report from Belize in 2012, the Committee on the Elimination of All Forms of Racial Discrimination (CERD) noted that racial factors affect “land possession and equal treatment before justice-administering organs.”¹³⁶ CERD acknowledged that Belize’s failure to submit a report did not evidence any bad faith.¹³⁷ However, CERD specifically addressed the alarming nature of the Belize Government’s treatment of the Maya Land Rights cases, noting “the Government had ignored that judgment, had adopted no protective measures, and continued to grant concessionary rights to those lands.”¹³⁸ There is no indication that the Government of Belize has addressed the concerns of CERD.

Expectations in terms of capacity-building and technical assistance:

70. Belize has fallen behind on many of its reporting obligations. This failure to report, however, stems mainly from a lack of resources and trained personnel rather than a lack of

¹³² UNDRIP, Article 29.

¹³³ UNDRIP, Article 28 (explaining that when lands are “confiscated, taken, occupied, used, or damaged” without such consent, then indigenous peoples have the right to some form of redress including restitution or other just compensation).

¹³⁴ UNDRIP, Article 27.

¹³⁵ GA/10612.

¹³⁶ Committee on the Elimination of Racial Discrimination considers situation in Belize in the absence of a report, August 16, 2012, available at

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12439&LangID=E>.

¹³⁷ Committee on the Elimination of Racial Discrimination, Summary Record of the 2183rd Meeting, CERD/C/SR.2183, p. 5.

¹³⁸ *Id.* p. 4.

political will to comply with international obligations. Hopefully, recent measures adopted by the Government to support their reporting obligations¹³⁹ may remedy this shortcoming.

71. The Government has set up meetings to inform Maya communities about oil exploration and extraction through representatives of Capital Oil, but has not made any attempt to translate the information into any of the Mayan dialects (Yucatec, Mopan, and K'iche') and have not made any other effort to make this information accessible to the Mayan people.

72. Several groups within the Maya Leaders Alliance have focused their efforts on creating materials in order to educate their communities about the land rights cases and the oil exploration process. Additionally, the Maya seem cognizant of the fact that the oil exploration will go forward with or without their input. Their goal is not to prevent oil exploration entirely, but simply to negotiate with the oil company in order to mitigate environmental impact on their communities and receive financial compensation that might be used to further their communities' development. Special focus should be placed on these efforts to fully educate the Maya involved in the decision making process in order to attain informed consent.

73. The Government should work with the Maya leadership groups to make this information accessible to the people so they can move forward with the development of natural resources and meet their obligations under the UNDRIP.¹⁴⁰ It appears that the delay and obstacles in developing these natural resources stems from a basic misunderstanding between parties. The Maya seem to simply want to gain legal title to their land in a way that fits with their customary title, similar to the Mennonites, and be consulted as the framework for that ownership system is developed. The Government, however, sees the Maya as attempting to stop the development of natural resources or seeking special rights above the rights of other Belizean citizens. Both

¹³⁹ Personal Interview, January 9, 2013, record on file with the University of Oklahoma College of Law.

¹⁴⁰ See UNDRIP, Article 32.

groups want to move forward with the development of natural resources but, until the Belizean Government engages the Mayan communities in meaningful discussions, in accordance with the UNDRIP, allowing them to understand the process, little, if anything, will be accomplished.