

Mandate of the Special Rapporteur on the rights of indigenous peoples

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Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the rights of indigenous peoples pursuant to Human Rights Council resolution 24/9.

In this connection, I am writing to transmit to your attention allegations received concerning the situation of the **arrest and detention of 12 Maya people from the village of Santa Cruz in Toledo District, Belize, for their actions to remove from their village lands a non-Maya individual and the arrest and charges of conspiracy to commit unlawful imprisonment against a human rights defender.**

According to the information received:

In 2007, the Supreme Court of Belize held that Santa Cruz village holds customary title to the lands that it uses and occupies in accordance with Maya customary law (The Maya Land Rights Case, Claims Nos. 171 and 172 of 2007). The judgment ordered the Government to “cease and abstain from any acts that might lead the agents of the Government itself, or third parties acting with its leave, acquiescence or tolerance, that might adversely affected the existence, value, use or enjoyment” of Santa Cruz village lands.

Since 2007, the rights of the Maya people to their traditional lands within the Toledo District have been repeatedly affirmed by the legal system in Belize, including most recently in April 2015 by the Caribbean Court of Justice, the highest court of appeals in the Belize legal system. The order of the Caribbean Court requires the Government to take measures to identify and protect Maya property rights and to abstain from interference with these rights unless consultation occurs in order to obtain consent of the Maya people.

Santa Cruz is one of some 39 Maya villages within the Toledo District of Belize.

In late 2014, [REDACTED], a non-Maya individual and alleged perpetrator of the following events (forthwith referred to as the non-Mayan perpetrator), entered Santa Cruz village lands and began the construction of a housing structure on the archaeological site, Uxbenka, which is an ancient Maya temple that is viewed as sacred to the Maya people in the area. The Santa Cruz village leaders allege that permission to build on the Uxbenka structure was not granted by the village. Permission is required by Maya customary law for any person, whether Maya or non-Maya, to build within a village. Further, in accordance with village policy, Santa Cruz villagers are prohibited from building houses, farming, burning or logging on any part of the archaeological site.

On 26 January 2015, Santa Cruz village leaders informed the non-Mayan perpetrator by a written letter that he did not have permission to live or build on the Uxbenka site and asked he leave within 21 days. The Belize police department in nearby Punta Gorda town was provided with a copy of that letter. In the months that followed, the non-Mayan perpetrator did not leave the village lands and instead proceeded to continue construction of his house on the archaeological platform of Uxbenka, including bulldozing and irreparably damaging a portion of the site to create a driveway for access to his house. Santa Cruz village leaders requested assistance from the local police department on various occasions to help remove the non-Mayan perpetrator from the site. The request did not elicit a response by the police.

In a letter of 17 June 2015, Santa Cruz leaders again sought the assistance of local police in this regard. The letter also noted that the non-Mayan perpetrator "has threatened with firearm the village leaders when he is approached concerning his illegal occupation of village lands. He has unpredictable behaviour which raises concerns for potential conflict and threat against lives". In light of this, the village leaders noted that they planned to physically remove the structures from the Uxbenka site on Saturday, 20 June, and requested the assistance of the police department "to guarantee that this endeavour is conducted in an orderly and peaceful manner". Again, there was no response by police to this or previous letters.

On Saturday, 20 June 2015, the non-Mayan perpetrator interrupted a fajina (traditional meeting) of Santa Cruz villagers, during which various community issues were being discussed. The alcalde (local leader) informed the non-Mayan perpetrator of the rules of the village and asked that he show respect to the villagers at the meeting. The non-Mayan perpetrator informed the villagers that he had a firearm in his car and then proceeded to approach his vehicle. In response to what was perceived as a threat, the villagers restrained the non-Mayan perpetrator

and handcuffed him. He was released later that day after agreeing in writing to remove the structures and his belongings from Uxbenka.

On Sunday 21 June, the Prime Minister of Belize appeared on national television stating: "In my view [the Maya people] have lost whatever moral high ground they ever had and I want to look carefully at it to see if any of them might not perhaps be criminally liable from what they did to that gentleman". The next day, on Monday, 22 June, the police entered Santa Cruz village and questioned Maya leaders and other residents about the 20 June incident, without any formal charges being brought against them.

Subsequently, in the early morning of 24 June, local police entered Santa Cruz village and removed 12 people from their homes, with several in bare feet and in various stages of undress. Two men and one woman allege that they were injured during the removal from their homes. The villagers were charged with unlawful detention and some with additional charges of common or aggravated assault. In addition to villagers, Ms. Cristina Coc, spokesperson for the Maya Leaders Alliance, an organization that works to support the rights of Maya villagers in the Toledo District, was arrested and charged with conspiracy to commit unlawful imprisonment. The Alcalde of Santa Cruz who was notified of the warrant the next day was charged with unlawful detention.

The magistrate set bail at \$8000 Belize dollars (about \$4,000 USD) each. After the attorney for the Maya defendants explained that this was beyond the means of Maya farmers, the magistrate increased the amount to \$10,000. According to local attorneys, bail for this level of offences is usually between \$1000 and \$3000 Belize dollars. Bail was posted by other Maya villagers from various communities and all were released. The case has been adjourned until 28 July 2015.

Concern is expressed that the arrest and detention of the Maya villagers may have also been prompted by retaliation for their legal work to have their rights to their traditional lands recognized and protected by the Government.

I urge your Excellency's Government of Belize to take all necessary measures to ensure that the human rights of the Maya people are fully respected, in strict compliance with international standards protecting the rights of indigenous peoples. I would like to call your Excellency's Government's attention especially to violations of the fundamental human rights of Maya citizens, including their right to life, security, access to justice, non-discrimination and their communal rights to village lands and respect of their elected authorities as enshrined in particular articles 2, 8, 25, 26, 27 and 40 of the Declaration for the Rights of Indigenous Peoples which your Excellency's Government voted in favor of in 2007.

I would also like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 9 and 12.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, I would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with international instruments.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please provide information concerning the legal motives and grounds for the charges brought against the Maya villagers of Santa Cruz and Ms. Cristina Coc.
3. Did local police respond to the requests by Maya village leaders to assist with the removal of the non-Mayan perpetrator from the Uxbenka site and if not, why not?
4. What measures has the Government taken, or intends to take, to implement the 2007 decision of the Supreme Court in The Maya Land Rights Case, Claims Nos. 171 and 172?
5. Please indicate what measures have been taken to ensure that human rights defenders are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

I am intending to publicly express my concerns in the near future as I am of the view that the information upon which the press release is going to be based is sufficiently reliable to indicate a matter warranting immediate attention. The press release will indicate that I have been in contact with your Excellency's Government's to clarify the issue/s in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of my highest consideration.

Victoria Lucia Tauli-Corpuz
Special Rapporteur on the rights of indigenous peoples