

IN THE SUPREME COURT OF BELIZE, A.D. 2008

CLAIM NO. 366 OF 2008

BETWEEN:

**THE MAYA LEADERS ALLIANCE and THE TOLEDO ALCALDES ASSOCIATION on behalf of the Maya villages of Toledo District, and
JUAN POP on behalf of the Maya village of Golden Stream, and
DOMINGO CAL on his own behalf and on behalf of the Maya village of Aguacate, and
LUCIANO CAL on his own behalf and on behalf of the Maya village of Bladen, and
ALBERTO HUN on his own behalf and on behalf of the Maya village of Blue Creek, and
CANDIDO CHO on his own behalf and on behalf of the Maya village of Crique Jute, and
LUIS CHO on his own behalf and on behalf of the Maya village of Crique Sarco, and
PEDRO CUCUL on his own behalf and on behalf of the Maya village of Dolores, and
MANUEL CHOC on his own behalf and on behalf of the Maya village of Indian Creek,
and
ALFONSO OH on his own behalf and on behalf of the Maya village of Jalacte, and
MARIANO CHOC on his own behalf and on behalf of the Maya village of Jordan, and
EDUARDO COY on his own behalf and on behalf of the Maya village of Laguna, and
PABLO SALAM on his own behalf and on behalf of the Maya village of Medina Bank, and
ROLANDO AUGUSTINE PAU on his own behalf and on behalf of the Maya village of
Midway, and
LORENZO COC on his own behalf and on behalf of the Maya village of Otoxha, and
SANTIAGO COC on his own behalf and on behalf of the Maya village of Pueblo Viejo, and
SILVINO SHO on his own behalf and on behalf of the Maya village of San Antonio, and
IGNACIO TEC on his own behalf and on behalf of the Maya village of San Benito Poite,
and
GALO MEJANGRE on his own behalf and on behalf of the Maya village of San Felipe,
and
FRANCISCO CUS on his own behalf and on behalf of the Maya village of San Marcos, and
MARCOS ACK on his own behalf and on behalf of the Maya village of San Miguel, and
JUAN QUIB on his own behalf and on behalf of the Maya village of San Vicente, and
LIGORIO COY on his own behalf and on behalf of the Maya village of Santa Anna, and
ELIGORIO CUS on his own behalf and on behalf of the Maya village of Santa Theresa.**

Claimants

AND

**THE ATTORNEY GENERAL OF BELIZE and THE MINISTER OF NATURAL
RESOURCES AND ENVIRONMENT**

Defendants

AND

FRANCIS JOHNSTON and SALVADOR BOCHUB

Interested Parties

FIRST AFFIDAVIT OF ELIZABETH MARA GRANDIA

I, Elizabeth Mara Grandia, an Assistant Anthropology Professor in the Department of International Development, Community and Environment at Clark University, of the City of Worcester, in the State of Massachusetts, **SWEAR THAT:**

Qualifications

1. I am an anthropologist and am known professionally as Liza Grandia. I am currently an Assistant Professor in Clark University's Department of International Development, Community and Environment. I possess a Bachelors degree from Yale University (summa cum laude) in Women's Studies with a concentration in the environment and development. I also possess a Ph.D. in Anthropology from the University of California, Berkeley. Attached hereto as **Exhibit "E.G.1"** is a copy of my curriculum vitae.
2. I have published widely in the fields of cultural anthropology, gender and development studies, and the situation of the indigenous peoples of Mesoamerica. I recently completed a book manuscript based on my 2006 doctoral dissertation entitled Unsettling: The Recurring Enclosure of the Q'eqchi' Maya. The Spanish version of this book will be published by AVANCSO (Asociación para el Avance de las Ciencias Sociales en Guatemala), one of Guatemala's most reputable social science institutes, with funding from Oxfam-Great Britain in the summer of 2009. The English version of the book is currently under review with the University of Washington Press's "Culture, Place and Nature" series edited by K. Sivaramakrishnan of Yale University.
3. I have conducted six years of anthropological fieldwork with indigenous peoples in different areas of Mesoamerica since 1991, primarily in Guatemala and Belize, but also introductory research in Honduras. Over the last fifteen years while holding various university positions in the United States and in between my major periods of fieldwork described below, I have maintained active correspondence with both Belizean and Guatemalan colleagues and community members.
4. In Guatemala, I completed extensive research and NGO work over five and a half years in two lowland areas, which border the country of Belize. The first area is the Petén, which is the Northern-most department in Guatemala and lies west of Belize. The second area is the department of Izabal, which is located to the southwest of Belize. My research involved fieldwork in dozens of villages, as well as archival research and interviews with representatives of governmental, non-governmental, donor, business, educational, and other institutions in various towns and cities across the country, but primarily in the northern region.
5. My research in Belize occurred between October 2003 and April 2004 and comprised archival and interview research in the cities of Punta Gorda, Belmopan, and Belize City, as well as fieldwork in the four Q'eqchi' Maya villages surrounding the Sarstoon-Temash National Park, which is located in the district of Toledo.

6. My fieldwork in Belize also included a collaborative project with SATIIM (the Sarstoon-Temash Institute for Indigenous Management) to document the traditional knowledge and forest uses of the Q'eqchi' Maya communities surrounding the national park. I worked primarily with 44 male and female elders in these villages and produced three volumes: (1) a 99-page study entitled The Wealth Report that is accompanied by extensive ethnobotanical indices, GIS maps of forest use, and two documentary DVDs of men and women's traditional skills; (2) a collection of almost fifty Q'eqchi' folktales; and (3) a special bilingual publication with the village women of their traditional recipes. Attached hereto as **Exhibit "E.G.2"** is a copy of The Wealth Report.

7. In addition to completing fieldwork in Belize and Guatemala, my dissertation involved a broad review of academic literature, including 550 books and articles on the agrarian situation in Belize and Guatemala. The authors of many of these articles describe and examine the land tenure and agricultural practices of Maya farmers in these countries as well as their way of life

8. I am fluent in spoken and written Spanish as well as proficient (both spoken and written) in the native language of my research subjects, the Q'eqchi Maya. While there are many different spellings of Q'eqchi' (Kekchí, Ketchi and others) I use the orthography endorsed by expert linguists through the Academy of Maya Languages of Guatemala (ALMG).

9. I understand that this affidavit is being filed as an expert report in this matter. I understand that, as an expert witness, my duty to the court is to help the court impartially on the matters relevant to my expertise. I understand that this duty overrides any obligations to the person or party who asked me to prepare this report. I am not being paid by any party to produce this report.

10. I was asked to provide a report on Maya customary land tenure patterns in Toledo, and the history of Maya-British relations with respect to land use and the alcalde system. I agreed to do so.

11. I understand that expert evidence presented to the court must be, and should be seen to be, my independent product uninfluenced as to form or content by the demands of the litigation, and to that end it is my duty to:

1. Provide independent assistance to the court by way of objective unbiased opinion in relation to matters within my expertise.
2. State the facts or assumptions upon which my opinion is based, and to not omit to consider material facts which could detract from my concluded view.
3. State if a particular matter or issue falls outside his expertise.
4. State if my opinion is not properly researched, and if so indicate that my opinion is no more than a provisional one.
5. Inform the court in my report if I cannot assert that the report contains the truth, the whole truth and nothing but the truth without some qualification, and what that qualification is.
6. Communicate any change of view I may have on a material matter to all parties to the litigation.

I have complied with this duty.

12. My report, being this affidavit and my first affidavit, includes all matters within my knowledge and area of expertise relevant to the issue on which my evidence is given.

13. I have provided details in my affidavits of any matters that to his knowledge might affect the validity of my opinion.

14. This affidavit is divided into several parts. I begin with a brief summary of the history of Maya peoples in Belize. The next part describes the customary and communal land management system that the Maya have developed through generations of subsistence farming, followed by an analysis of its advantages for the Maya people. The final section explains the adverse effects of various threats to Maya customary land rights in Belize, concluding with both negative and positive contrasts to the land situation of Maya peoples in Guatemala.

Historical Context - the Maya People in Toledo

15. In this section, I review the relationship of the two Maya groups involved as Claimants in this case, the Mopán and the Q'eqchi', as well as a third extinct Maya group described by historians as the Manché Ch'ol. At the time of contact with the Spanish, both the Mopán and the Manché Ch'ol indisputably lived in the Toledo district, as there is clear documentation from colonial records that the Spanish forcibly resettled both these groups from Toledo to different areas of Guatemala. As I will describe, the Q'eqchi' intermixed with both these groups, blurring the lines between them.

16. The historic settlement of various Maya groups in Belize is well-documented by Richard Wilk, Richard Leventhal, Grant Jones and Bernard Q. Nietschmann in their published writing and in their affidavits for a related petition to the Inter-American Commission on Human Rights in 1998. I concur with their conclusions that, long before the arrival of the British or Spanish in the region, various Maya peoples had organized settlements in what would later become the nation-state of Belize. At the time of contact with the Spanish, both the Mopán and the Manché Ch'ol indisputably lived in the Toledo district, as there is clear documentation from colonial records that the Spanish forcibly resettled both these groups from Toledo to different areas of Guatemala. The Q'eqchi' intermixed with both these groups, blurring the distinctions between them.

17. In the period after contact with the Spanish, the Mopán Maya lived in Toledo until the Spanish removed them against their will to Petén, Guatemala. The Manché Ch'ol also lived in the Toledo region until the Spanish removed them to Verapaz, Guatemala, where they became extinct as a discernible ethnic group. My research shows that during the Spanish colonial period, the Q'eqchi' Maya intermixed with both these groups. They intermarried with the Mopán who had been relocated to San Luis, Petén and together these Mopan-Q'eqchi' families organized a return to Belize in the 1880s. The Q'eqchi' Maya also intermixed with the Manché Ch'ol people in two regions: (1) in highland Verapaz where the Spanish relocated some of the Manché Ch'ol and (2) with remnant populations in the region north and northwest of Cahabón. The Q'eqchi' people who migrated to Belize at the end of the nineteenth century and afterwards were clearly fleeing political and economic repression in Guatemala. I would reiterate here that the political

and demographic chaos caused by the Spanish conquest resulted in widespread ethnic intermixing and cultural fluidity among all Maya groups.

18. Ethnicity is a fluid category, as many Maya groups share similar cultural traits and have all descended from a common lineage that connects them all to the ancient Maya peoples who inhabited Mesoamerica before the arrival of Europeans. The ancient Maya people shared a hieroglyphic writing system and maintained extensive political and economic ties among their city states. Yet, having settled in disparate geographic areas, over time the ancient Maya language diverged into different branches. Eventually, the linguistic differences between Maya groups became significant enough to classify them as separate languages. Outsiders have used these linguistic differences to classify different Maya speaking people as separate ethnic groups. Although their languages are mutually unintelligible and they are divided across five nation-states (Mexico, Guatemala, Belize, Honduras and El Salvador), Maya peoples nonetheless continue to share many cultural traits.

19. Externally imposed ethnic divisions such as those used by governments in census taking can be confusing to groups which have lived side by side for generations. Throughout my research, Q'eqchi' people repeatedly asked me if "Maya" (referring to Mopán peoples, known as "Maya Mopán" in Belize or sometimes simply "Maya") were the same as Q'eqchi'. Although the Mopán and Q'eqchi' languages are mutually unintelligible to native speakers, these groups nonetheless intermarry, share agronomic and forest knowledge, and have maintained remarkably similar village settlement patterns for generations.

20. As an anthropologist, my direct knowledge about Maya land use comes from observations in Q'eqchi' communities, whose language I speak. Furthermore, because I have extensive fieldwork with ladino (mestizo) settlers, I am able to distinguish between what is Q'eqchi' or Mopán and what may be just "rural" practices. Through this first-hand knowledge, and through extensive literature reviews, I have concluded that in Belize the environmental and land management practices of the Mopán and Q'eqchi' are similar enough to disregard the linguistic differences that anthropologists use to formally separate them into two ethnic groups. In addition, because of their shared political and economic history in Belize, the land use practices of the Mopán and Q'eqchi' are more similar in Belize than they are in Guatemala. For ease of reading, in this affidavit I refer to the Mopán and Q'eqchi' in Toledo simply as "Maya" whenever I am referring to shared land use or cultural practices.

21. As outlined in greater detail in Chapter 3 of my dissertation and forthcoming books, Q'eqchi' Maya migration from Guatemala to Belize since the late nineteenth century has been deeply tied to repeated land dispossession resulting from land privatization (originally for foreign coffee investors and most recently for cattle ranchers and operators of African palm plantations). Contrary to derogatory and stereotypical images of Q'eqchi' peasants as "leaf cutter ants" (or "wee wee ants" as they are known in Belize) moving chaotically across the forest, I found that Q'eqchi' migration is patterned and usually predicated by dispossession or oppression.

22. Some of the Q'eqchi' people moving to Toledo may have been aware of the ill-defined border between Guatemala and Belize, but I think that most regarded their migration as simply a movement into a forested area without owners. Once in Belize, they still regard their land as being part of a contiguous Maya territory, and rightly so, as there is dense Q'eqchi' settlement on

both sides of this border. Elders from Conejo village and other villages in southern Toledo still occasionally participate in ritual and religious exchanges with communities in Guatemala. Traders, missionaries, elders, healers, and other Q'eqchi' leaders visit back and forth between Guatemala and Belize. Q'eqchi' residents of Toledo clearly assert their national allegiance as citizens of Belize, yet they maintain ties and affinities with a broader Q'eqchi' community, as well as a broader pan-Maya movement.

Customary Maya Land Management

23. Many researchers have documented the customary land management system of the Q'eqchi' Maya. I provide a detailed description of this system in The Wealth Report (attached hereto as Exhibit "E.G.2") and in chapters five and six of my dissertation.¹ I have read the first affidavits of the Claimants from Maya villages in the district of Toledo, Belize. Being farmers themselves, the Claimants have accurately described the customary Maya system of land stewardship. I also affirm the description of Maya land tenure outlined by Richard Wilk in his first affidavit. Building on their accounts, in this part of my affidavit, I will describe this land use management, and discuss some of its socio-economic and environmental advantages. I will refer throughout this section to the affidavits of the claimants from Maya villages.

24. The customary Maya system of land management combines a mixture of quasi-private use rights with collective decision-making. While it is not a monochrome system in which every community continues to observe the same timeless indigenous practices, the claimants' affidavits demonstrate remarkable consistency and uniformity of basic principles. According to variations in geography and village leadership, each community may manage their land in a slightly different manner. Far from being anarchic, this system is characterized by profound ecological, social, intellectual, spiritual, and economic logic.

25. Families can claim and retain agricultural plots over long periods of time. Each family is responsible for its own agricultural work and reaps its own harvests. Other farmers may provide assistance, especially for the tasks of burning and planting, but the family or household is usually the central organizing unit within the Maya land management system. The collective aspect of this system is the community decision-making process about how land is to be distributed among households. Striving to distribute farmland equitably, Maya communities also seek to ensure that all members of a village have access to communal or shared forest areas that are used for hunting, fishing, collecting water and gathering various resources.

26. Residents of Maya villages rely strongly on their surrounding natural resources for their subsistence needs. This reliance involves use of the lands and resources for agriculture, forest resources, and spiritual practices related to land management. Indeed, in Maya villages, the

¹ Other excellent descriptions of Q'eqchi' agriculture can be found in Richard Wilk, R. Household Ecology: Economic Change and Domestic Life among the Kekchi Maya in Belize (Dekalb: Northern Illinois University Press, 1997); Jon Schackt One God-Two Temples: Schismatic Process in a Kekchi Village (Oslo: Department of Social Anthropology, University of Oslo, 1986); Anne Osborn Socio-Anthropological Aspects of Development in Southern Belize (Punta Gorda, Belize: Toledo Rural Development Project, 1982).

milpa cycle confirms and reaffirms religious holidays, kinship and friendships, and really the whole human lifecycle.

27. As explained in Professor Wilk's affidavit, Maya farmers maintain one or more permanent plots (dry season cropping, *saqiwaj*), along with a series of rotating wet-season plots (*k'at k'al*) left in different stages of fallow. Both these plots are located a sufficient distance from the village to remain out of the range of pigs; alternatively, some villages have banned pigs to protect agricultural plots. In many villages, most farmers have *saqiwaj* land concentrated along a river as noted in the affidavit of Liberato Choc, and other suitable areas. Cacao orchards are often concentrated along roads. This allows them easier access to maintain a watch on this high-value cash crop, and to extract the crop to market.

28. Farmers often have combinations of several small plots spread out in different areas that would not easily conform to a leasing system of single, 30 acre blocks. As noted by Mr. Luis Cho of Crique Sarco, "while some of the leases are being issued to our villagers, the problem we have is the villagers do not get leases in the areas they work." Most of the alcaldes' affidavits note that farmers select farm plots based on soil fertility, and they appreciate the flexibility of the customary system to allow them land selection. As Mr. Pedro Cucul of Dolores notes in his affidavit, "black soil is best but the colour changes as we use it and so we let it rest for a while so that we can get a good crop."

29. It was once the responsibility of the alcalde to mediate or resolve any land disputes. Traditionally, the outgoing alcalde would recommend or recruit (*sikb'il*) a successor, whom the community would confirm. Now faced with implementation of the recent Village Council Act, which created an overlapping system of village governance without any acknowledgement of the existing alcalde system, villages have had to accommodate potentially overlapping jurisdictions, and some of these functions are being transferred to the village chairperson who is elected according to Belizean law. With the introduction of the Village Council Act, the division of labour between the alcalde and village chairperson now vary slightly from village to village, depending on experience, personality, and kinship issues. With the introduction of elections for village chairperson, the selection of the village *alcalde* may also become more of a straightforward elections process, with less reliance on the traditional practice of having village elders recommend a candidate.

30. Apart from agricultural plots, families claim a separate house plot, usually large enough to maintain privacy and sanitation between households. On this plot, most families will keep domestic animals and plant a small home orchard and/or a herb garden. Keeping domestic animals functions like a long-term savings account, as pigs and fowl can be sold whenever a family needs cash. Though it varies from village to village, on the whole villagers participate very little in the cash economy and rice is the main cash crop, though cacao is growing in importance.

31. Because of their historic isolation, villagers in many villages provision most of their needs from the forest. Before the roads from Punta Gorda was built, residents of Maya villages had to walk many miles to larger towns to buy supplies such as sugar, soap, rice, and flour from dry goods stores. Because of the distance to market, for many, it was easier to make some household supplies themselves. For example, some villagers still build kilns to manufacture

their own lime powder for cooking tortillas; others still manufacture their own cooking oil from corozo seeds or coconuts, a time consuming process, to be sure. The elders recalled to me making hard blocks of dark sugar (panela) from sugar cane and even making their own cooking pots from clay until as recently as forty years ago when metal varieties became available. While geographical access to consumer goods has increased through bus travel to town or from the visits of traveling salesmen from Guatemala (known as the “Cobaneros”), many basic items remain beyond their household budgets. I recall one elder expressing a desire to buy something as simple as a plastic water bucket that would be easier to carry on her head, but she lamented, “*Terto ut b’ar noqo taw qa tumin.*” (“It’s so expensive and where are we going to find the money?”) Comments about the high cost of consumer goods are common subjects of village conversation.

32. Nonetheless, the forest provides for most of their household needs: fish and game meat, housing material, medicine, wild and *milpa* foods, firewood, and so forth (for greater detail, see the appendices of Exhibit E.G.2, The Wealth Report with lists of the several hundred plant and animal species used. Sources of wild meat include at least 25 mammal and bird species, plus many more fish species. Housing materials include termite-resistant species for corner posts and roof frames, various other species for walling, vines for lashing, plus two species of palm leaf for roofing. Wild foods are especially important for adding vitamins to the diets of children and pregnant or nursing women. These vary by season, and women have developed many special recipes for their consumption. The Sarstoon-Temash villages have a large number of healers or “bush doctors,” who know and use on average around a hundred different forest plants each. Agrobiodiversity is high, as well, in this region. I documented more than eighty crops and *milpa* foods cultivated by different families in these villages. While most any tree can serve for firewood, villagers easily identified by name more than twenty species known for good cooking quality. All told, they make frequent, varied, and careful use of forest species for subsistence.

33. The creation of restricted use areas, such as parks and forest reserves, has impacted on the land use of many villages. For example, despite the clear reliance on the forests for village survival, the government established the Sarstoon-Temash National Park (“National Park”), in 1995 without any prior consultation with or even notice to the nearby communities. It wasn’t until almost two years after the park was created that the villages learned of its existence. During a workshop held in February 1997, fearful that the park management plan would not take into account their livelihood needs, village representatives agreed to the challenge of co-management of the park in the hopes of being more involved in the development of park policies. The external establishment of this park has particularly affected Conejo and Midway villages, as they are the closest to the park and some villagers had their *milpas* in the northeast arm of the park. Residents now must ask permission for harvesting materials from the park, which poses challenges to time-strapped farmers participating in very complex networks of reciprocal labor exchange. Villagers attempt to honour the principles of conservation behind the creation of these areas and other regulations, but as can be seen from his affidavit and those of Edwardo Coy, Galo Mejangre, Ignacio Tec, Luciano Cal, Pablo Salam, Silvino Sho, and Sipriano Canti, often continue to use them in customary fashion with or without regard to government-imposed rules.

34. To supplement the protein provided from the beans they grow (farmers rarely eat their own domestic animals, except on special occasions), many farmers combine their agricultural activities with occasional hunting and fishing. Hunting is often self-regulated through cultural

norms including hunting by the moon phase and respecting breeding seasons, as noted in the affidavit of Pablo Salam. Hunters typically share their meat with other families, as there is no refrigeration in many villages. Both men and women participate in fishing, either by line, trap, or temporarily paralyzing the fish by dipping special plants in the river water, an activity confirmed by most of the claimant affidavits.

35. In the past, almost all agricultural, extractive, and hunting activities involved rituals, asking permission from the *Tzuultaq'a*, the Q'eqchi' gods of the Hill and Valley, for use of those natural resources. However, large village ceremony for this, known in Q'eqchi' as a *mayejak*, is today usually restricted to larger communities. To carry them out correctly, a village needs at least four elder men and four elder women to lead the rituals. In smaller communities that lack the demographic or cultural resources to carry out a major *mayejak* ceremony, many families nonetheless continue to practice traditional rituals within the household. In the privacy of their own homes, they will burn a little incense and make special prayers and rituals before important events like planting their corn crop. Some may also visit sacred village sites such as mountain caves or natural stone altars to make prayers and leave offerings for the *Tzuultaq'a*. Shoshanna Parks describes similar reports concerning the temple of Uxbenka from Mopan villagers in and around Santa Cruz. Younger generations may no longer overtly pray to the *Tzuultaq'a* because of the influence of Protestantism and new modes of Catholic worship. Nonetheless, in place of praying to the mountain gods, they may ask the Christian god to bless their crops, or better still ask both. A surprising number of young people who do not know the traditional rituals still profess faith in the living existence of the *Tzuultaq'a*, affirming that “*yoo yoo*” (they indeed live). Even the youngest of families still prepare traditional meals for weddings, baptisms, and even birthdays and make food offerings to their God(s). All in all, Maya ritual in Toledo, albeit not a textbook case, remains alive and well, as it evolves along with modern times.

Advantages of Traditional Maya Land Tenure Systems

36. Toledo Maya villagers continue to follow predominantly the traditional system of dividing land among themselves. Fearing that they might lose these customary rights, however, groups in some villages have applied for leases at various times over the years. Most farmers in the villages continue to follow customary land practices because of their ecological, economic, social, intellectual, and spiritual advantages as described below. Having lived in relative geographic isolation largely outside the nexus of government development programs for decades, Maya citizens of Toledo villages have maintained their own subsistence livelihoods with a customary legal system that suits Maya agriculture better than European-type land law regimes.

i) Ecological and Economic Advantages

37. Under the usufruct system of customary land management, good quality soils are distributed equitably and farmers are likely to practice good land stewardship. This relates to an essential Maya value for balance—meaning that there is a harmonious equilibrium between the community and the natural world. Farmers can earn their livelihood from the land, provided they show respect for the natural world and their gods. By contrast, if confined to a lease block, a farmer may not have the appropriate soils for his crops and may be compelled to degrade the land to survive. I have observed in Guatemala that one of the main reasons why farmers sell

land to cattle ranchers and other speculators is that their parcel has inadequate natural resources for subsistence. I have repeatedly heard Guatemalan–Maya farmers lament that the land that had been assigned to them through the titling process, albeit a large parcel, was either too swampy or too hilly or too rocky to cultivate in a sustainable manner. Dissatisfied with the land titles assigned to them, usually in square blocks, they were much more inclined to sell part or all of the land that could not be farmed using their agronomic skills, land which under the customary system would be available to all members of the community as a source of forest resources and game.

38. Because the Maya system of land management allows farmers to access different ecological niches, they can practice more sophisticated agroforestry and plant a greater variety of crops. In the Maya villages I visited in the district of Toledo, I observed that both male and female heads-of-household make significant labor investments in tree crops (agroforestry). This is an environmentally-positive move towards more economically intensive (meaning higher cash production per acre than milpa production) but still sustainable farming. Agroforestry includes planting fruit trees on their farming plots as well as orchards in the yards of their homes.

39. What is remarkable about both kinds of agroforestry (planting fruit trees on farmed plots and in home gardens) is that these households have successfully managed to plant long-term crops without state-protected land tenure. These sustainable agricultural practices have thrived under a customary system of land management, which demonstrates the widespread adherence to and acceptance of the customary norms governing land use by the Maya people. Fruit orchards have become so successful in places like Midway village that the community decided to protect garden orchards by banning free-ranging pigs and horses. That a village would decide to prioritize orchards over pig-raising, which historically was a favoured livelihood strategy for the Q'eqchi' Maya in Belize and Guatemala, emphasizes the remarkable foresightedness of these communities and the corresponding flexibility of the Maya customary and communal land management system to changes in the economy.

40. Customary land management is not static or anti-market. To the contrary, it allows communities to make timely decisions about how to adjust their land management in response to new market opportunities and constraints. Through the market opportunities of the Toledo Cacao Growers Association (TCGA), many Maya farmers, including some of the Claimants, have made significant investments in cacao orchards. Through the market opportunities afforded by the Punta Gorda farmers' market, many Maya women, especially elders, have established highly productive home orchards and gardens and improved their household's well being through the sale of fruit and vegetables. While they experiment with these new crops, Maya families nonetheless continue to grow their corn, bean, and root crops. As Richard Wilk describes in his book Household Ecology, these subsistence crops protect Maya communities from market "busts," while giving them flexibility to take advantage of market "booms."

41. The farmer-led system of land allocation allows the Maya, who are extremely knowledgeable about the land, to select areas that are ecologically appropriate for growing their crops. Sometimes this will mean planting crops in both upland and lowland areas. Indeed, the most important factor for a poor farmer may not be the *total* amount of land he or she farms but rather, having access to several small parcels of land that possess different slopes and drainage. These important variations, if present, may enable a household to produce up to three corn crops

a year. For example, well into the dry season, Maya farmers can get a third corn crop from swampy areas that are otherwise not arable. Farmers in Maya villages reported to me that they often had small, separate plots for rice, for beans, and for corn, because these crops require slightly different soils. Ecologically, the planting of several small crops is more sustainable than planting one large contiguous field, because seed-dispersal and consequently reforestation during the fallow period occurs more quickly on smaller plots.² The division of land into many small plots gives more Maya farmers a chance to share access to the streams and rivers running through their village territories.

42. By contrast, when a household is assigned a single plot, a farmer may lose access to water, forest resources and/or a variety of ecological niches that are needed for his or her family to subsist. This means that, even if a farmer has the right to use many acres of land under a lease, the farmer may be poorer than he or she would be under the customary system where farmers have greater control in choosing lands that will be fertile. Furthermore, in contrast to European-style lease or grant systems that give owners exclusive rights to the land, the customary system allows for multiple uses of land. As virtually all of the claimants have stated, hunting game on another person's *milpa* is perfectly acceptable. Healers may gather medicinal plants wherever available. Families share collective forest areas for common household needs like firewood, building materials, and hunting. The customary system also ensures that all families may maintain access to waterways for transportation, fishing, laundry, and bathing. As I discuss in my dissertation and forthcoming books, within Maya worldview, equity is a central cultural value. Negative social controls against any one person accumulating too much include fears that the "envy" of neighbors will lead to illness and misfortune through witchcraft or the "evil eye." Positive social controls fomenting equity include a deeply felt ethic of reciprocity and helping others in need. This extends to an intergenerational sense of respect and responsibility for the welfare of the elderly.

43. When farmers lose access to general forest resources through individual parcelization, they lose many of their networks of reciprocal exchange of labor. The loss of forest resources also leaves them with no other choice but to purchase household necessities on the market in cash. That Maya communities can make many household items from forest materials (such as brooms, shelving, baskets, pots, handbags and medicine) keeps Belize's burgeoning trade deficit from growing still further. In The Wealth Report (attached hereto as Exhibit "E.G.2"), I also describe in detail hundreds of plants that the Q'eqchi' Maya use as medicine, food, craft materials and building items. Given Belize's scarcity of foreign currency for the purchase of imports, the self-provisioning of Maya communities greatly benefits the Belizean economy, even if this is not accounted for in the country's GDP. For example, without access to forest resources, sick Maya living in rural areas would have to be ambulated to hospitals in town instead of being cared for by local healers with local herbs. If they have to buy many basic necessities using cash, they may have little or nothing left to pay for the education of their children. To make up this cash shortfall, they may be forced into unsustainable commodity agriculture or unskilled labor. Indeed, I have witnessed in Guatemala that this consumption

² B. G. Ferguson, J. Vandermeer, H. Morales, and D. M. Griffith. "Post-Agricultural Succession in El Petén, Guatemala" *Conservation Biology* 2003, 17:818-828.

burden increases farmers' dependence on cash cropping (resulting in extensive fields of monocrop corn or monocrop beans), which many studies show can be detrimental to long-term soil sustainability. In other words, Maya farmers who are displaced by an imposition of Belize's purely private statutory land tenure system may be forced to migrate to urban areas in search of jobs, or to remove their children from school to find a job and contribute to the family's income. While incorporation into the paid labour force can be a positive development, these processes of forced economic migration disrupt cultural continuity over generations. The erosion of family and community well being following land dispossession, and the accompanying fracturing of the cultural normative structure, is a well-documented pattern among many indigenous groups around the world.

44. From my comparative vantage point, access to forest resources and cultivatable land through the customary and communal land management system is the main factor that distinguishes healthy Maya communities in Belize from their desperately poor counterparts in Guatemala. Because of lower population density and greater respect historically for Maya-occupied lands in Belize than in Guatemala, Belizean-Maya communities as a whole have conserved more of their customary land management practices than have Q'eqchi' Maya communities just across the border. Although the Belize Maya communities may be cash-poor in relationship to urban areas or other villages in Belize, they nevertheless are able to improve their standard of living by benefiting from the natural subsidy offered by forest resources they use with the aid of traditional knowledge passed over many generations. Outlined in much greater detail in The Wealth Report (attached hereto as Exhibit "E.G.2"), the Maya use the forests for hunting and trapping wild meats, fishing, collecting craft materials, fetching firewood, acquiring home-building and thatching materials, and finding medicinal plants and other wild foods to supplement their diets. Many of these errands to the forest are frequently combined with trips to farmed lands, which results in the efficient use of walking time. For this reason, Maya communities conceive of forest and agricultural management in a holistic way.

ii) Social Advantages

45. The amount of land that one can use under the customary system of land management is usually limited by the amount of labour one can recruit for planting. Members of the community are therefore precluded from taking more land than they will actually use. This produces equitable results in that the aggregate size of plots for average-sized households are roughly the same. Under a European-type lease or grant system, only those who can afford to pay the price, be it for a survey or for the land itself, can apply for land rights. The size of leased plots is not related to subsistence needs or whether the landholder can actually provide sufficient labour to care for the land. The resultant disparity of wealth and capital, in addition to hampering economic development, disrupts customary social networks and belief systems, giving rise to social conflict.

46. The mutual exchange of labour and other farming aid integral to Maya land tenure practices also foments strong community bonds and cooperation. For example, Maya communities organize community workdays (referred to as *fajinas* in Belizean-Maya communities) that enable them to invest a great deal of collective labour for the building and maintenance of farm paths and other village infrastructure. If a family wishes to join a new village, the family's head-of-household must typically ask for permission from the village mayor

(*alcalde*) and a village assembly. In some instances, the community may ask the newcomers to pay an “entrance” fee. The entrance fees charged to newcomers are a form of compensation for this *fajina* labour that demonstrates a commitment to being a member of the community and helping finance village infrastructure that will benefit all. A European-type lease or grant system undermines these practices because it confers property rights upon outsiders without the village’s permission, without compensating the village as a whole for use of their collective infrastructure, and without creating any reciprocal responsibilities to assist with community work projects; in short, without any acceptance of or obligation to customary governance and norms.

47. The Maya system of customary land management, unlike European-type systems of private property, contains strong social protections for the most vulnerable members of a village including widows, the elderly, and future generations. Such social protections stem from a profound Maya belief in respect: respect for nature, for the gods, for one’s family, for elders, and for one’s possessions. Communities give preferential treatment to women-headed households and to older farmers by assigning them plots closer to the village. For instance, in Santa Anna, Ligorio Coy describes how the good lands closest to the river are reserved for allocation to elderly villagers. Such flexibility would be undoubtedly lost in a European-type system of pure individual ownership, which rewards those who already have significant economic resources to complete the legal and bureaucratic requirements for land applications.

48. Private or leasing systems introduce many complications for land inheritance (another aspect of Maya life governed by custom and constructed on the framework of customary land tenure rights). The reason for this is that first-born sons may reach adulthood before their fathers have retired from farming or finished providing for their younger children. Hence, fathers may not be able to afford to relinquish a part of their land when their eldest son(s) come of age. When this occurs under the customary and communal system of land management, these older sons can get land from the village. In Q’eqchi’ Maya villages, it will usually be a younger child or sometimes even a grandchild who takes over farming elderly parents’ or grandparents’ lands, taking care of them in their old age and often continuing to farm those lands after their death. In a state leasing system, since elder sons would not be able to obtain land from the village and their parents’ poverty may not allow them to give away land while they are still active farmers themselves, they may be forced to reduce their labour on the family lands in order to accumulate for themselves the capital necessary to obtain leases for themselves, in order to not be left landless if they could not acquire their own leases. This would diminish family and social cohesion and would also undermine the trans-generational passage of traditional knowledge as described below.

iii) Intellectual Advantages

49. Mutual labour exchange and collective land management facilitates the transmission of traditional knowledge of the forest and agriculture to younger generations. Maya knowledge has been passed down orally or through apprenticeship since at least the sixteenth and seventeenth centuries, after the Spanish conquerors destroyed all of the Maya books that passed along this information in writing. Some aspects of Q’eqchi’ knowledge are unique, but there is also a common base of traditional knowledge that spans all Maya groups. In Q’eqchi’ Maya communities, a young man might accompany an elder for several seasons of planting in order to learn about traditional agricultural practices. Specialized Q’eqchi’ knowledge is usually paid for

with gifts (such as coffee, *b'oj* [a fermented corn drink], sugar, cacao, domestic animals and/or money). The young generation also receives advice from their parents, from their extended kin, and from their godparents (the “compadres” of their parents), who may live in other villages. Participation in collective work groups gives young people opportunities to learn from neighbors who are not kin to them. The young provide the muscle, while the old provide the knowledge. Under a European-type private ownership system, the gathering and dissemination of this knowledge will be compromised. For example, I have observed in Guatemala that this apprenticeship of the young provided by the elderly is usually lost in the transition to private property or leases, because farmers tend to abandon their systems of mutual aid and reciprocal labor in such situations.

iv) Spiritual Advantages

50. The Q’eqchi’ Maya envision their surrounding landscape as sacred within Maya cosmology and as home to the gods of the Hill and Valley (*Tzuultaq’a* in Q’eqchi’). Although located at a considerable distance from the thirteen sacred mountains around Cobán, Guatemala, Q’eqchi’ elders in Belize insist that the gods living within the smaller mountains of Belize are equally sacred to them and, as one elder put it, can send messages back to the larger mountains of Guatemala like the postal system. For its spiritual well-being, every Q’eqchi’ village needs access to its own sacred place. Ideally, this is a cave within a mountain, but it might also be a large stone in the forest or a stone associated with a water source like a spring or creek. The Q’eqchi’ believe that the *Tzuultaq’a* live in these sacred places. These lords have names and can be male or female. It is to the *Tzuultaq’a* that many Q’eqchi’ direct their supplications and prayers for good harvests, good health for their families, and to ask permission to use the forests to hunt. For the Q’eqchi’ Maya, the forests are not places belonging to no one. Rather, they are farmlands of these mountain gods. The wild animals in the forests are regarded as the domesticated beasts of these same gods. Should the gods be unhappy with the people, they will refuse to release the wild animals to graze in the forests.

51. Many sacred Maya areas were identified in the maps in the *Maya Atlas*,³ the creation of which is described by Bernard Nietschmann (1997). In conjunction with village elders and SATIIM, I mapped with more precision the sacred areas surrounding the Sarstoon-Temash National Park in Toledo, Belize. Included as part of these sacred areas are mountains where incense (*pom* in Q’eqchi’) may be harvested from the *Protium copal* tree. The burning of incense is necessary for all of the sacred rituals of the Maya, as it is the incense smoke that carries their messages, prayers, and supplications to the heavens. Because the hills where Copal trees grow are on lands that could potentially be leased, the incense harvesters fear that they may lose access to this critical community resource. In the customary Q’eqchi’ Maya land management system, these wild groves of Copal trees are respected as a kind of private property in the sense that Copal harvesters have a usufruct right to the trees they work. Copal groves are usually found on rocky hills and mountains, in other words on lands that are otherwise not arable. In the Sarstoon Temash region, these Copal hills are located to the west of Conejo village. If someone else

³ Toledo Maya Cultural Council & Toledo Alcaldes Association *Maya Atlas: The Struggle to Preserve Maya Land in Southern Belize* (Berkeley, California: North Atlantic Books, 1997).

wants to harvest the Copal trees, they must first ask permission from the harvester in charge of that grove. Having each Copal grove under the stewardship of one family ensures that the trees will be carefully harvested. Otherwise, the incisions made in the bark might cause disease or death for the tree.

Adverse Effects of Threats to Customary Land Management

52. The core of Maya beliefs is that land is for those who use it, or put another way, the land cannot be owned, but merely borrowed for one's use. As I have described above, there are many reasons why this Maya land system has survived for centuries, as it is so well adapted to their environment.

53. While on the surface this case, like the *Maya Land Rights* case before it, appear to be merely about property rights, as an anthropologist I see deeper issues at stake. Respect for Maya land rights is intimately related to confronting many of the threats undermining the culture and democratic authority of Maya communities. Other perceived threats to community well-being include timber concessions, petroleum extraction, national parks, bank foreclosures and intrusions by outsiders who fail to respect Maya customary norms, as mentioned by several of the claimants in their affidavits. Fears of outsiders gaining more rights than local people are not unique to Maya communities, but Maya villages feel them acutely because they so greatly depend upon the land and forests for their subsistence and cultural survival.

i. Timber concessions

54. Many Maya villages have already suffered from the impacts of Malaysian logging companies in the late 1990s that selectively removed the most valuable trees in their forests. People living in those villages express a sense of betrayal at the false promise of jobs. More recently, the government has permitted an outsider one and possibly more 500-acre leases over an area the Maya communities of Midway and Boom Creek consider to be their best hunting grounds and fishing locales. The affidavits of Edwardo Coy indicates that logging is taking place without the village's consent in Laguna, also, and I understand that is also the situation in Dolores. Again, this was done without consulting either village. Instead of respecting Maya land use norms, these lessees open roads, engage in logging activities to the detriment of wildlife habitat, and inform villagers that they are not to enter the area anymore. Maya villagers are rightly concerned that similar rights could be granted to outsiders over their village lands, to their detriment, if their rights over their lands continue to be ignored.

ii. Petroleum extraction

55. The government of Belize has issued a concession for seismic testing and oil exploration in Maya traditional lands, to the best of my knowledge without any or adequate consultation with the affected Maya communities. Despite provisions in the Petroleum Act which require the written consent of the owner or lawful occupier of lands in order to exercise its rights under such a concession, and payment of compensation for any damage caused, previous oil exploration in the 1970s in Toledo left areas where trees and crops will not grow, and neither the company nor the government took any measures to decontaminate them. I was shown one of these areas, known locally as "Moqochila," in the village lands of the Maya community of Crique Sarco.

This lack of accountability is one result of the failure to acknowledge Maya ownership and occupation of these lands.

iii. National parks

56. The creation of the Sarstoon-Temash National Park, described in more detail in paragraph 33, was another example of how the government attitude that Maya village lands are the property of the government to dispose of as it wills threatens Maya land use. Villages neighbouring the park and in whose lands that park was created were given little choice but to acquiesce to co-management of a national park established in their backyard without prior consultation, and as a 2006 court decision demonstrates, despite accepting a co-management agreement in order to retain some control over their traditional lands, are not even considered to have the authority of an Administrator under the National Parks Act to authorize or prohibit their own or third party activities (such as oil exploration) in those lands.⁴

iv. Road construction & paving

57. In response to the paving of the Southern Highway from Belmopan to Punta Gorda with IADB funding, Maya groups (both Q'eqchi' and Mopán) organized to win a moratorium on land dealings for two miles on either side road to prevent land speculation, except to Maya villagers with the consent of their village leaders.⁵ Although to the best of my knowledge and that of the villagers with whom I have spoken, that moratorium remains in effect, I note that Silvino Sho indicates that a lease is being surveyed by a non-resident in San Antonio matahambre lands, which would be within the moratorium area. Thus, it is not clear whether Lands Department officials continue to respect the moratorium.

58. A similar pact between the Belize government and the Toledo Maya organizations was made for the anticipated road connection to Guatemala through San Antonio out to Jalacté. However, in March/April 2004, road construction crews appeared in southern Toledo, bulldozing a road connection from Sundaywood and Conejo villages through to Otoxha. I was present in the Sarstoon Temash villages during this time, and know first hand that none of them had been consulted. Moreover, representatives of the Maya Leaders Alliance, which had been responsible for negotiating the northern route lease moratorium, learned about this new road route second hand, not from the government. As I understand, the road construction was subsequently halted due to national budget difficulties, but construction could resume any time. While roads can bring access to markets, they also open access for outsiders to the natural resources of the area, and potentially many more immigrants from Guatemala and other parts of Belize. When and if the extension and paving of this road to Guatemala occurs, without a lease moratorium there will likely be rampant land speculation, which will threaten the cacao groves and agricultural fields that villagers of Crique Sarco, and Sunday Wood have planted along this road. Conejo would

⁴ *Sarstoon-Temash Institute for Indigenous Management v. Forest Department et. al*, Supreme Court of Belize, Claim No. 212 OF 2006. (September 29, 2006)

⁵ Statutory Instrument No. 68 of 2003 and Statutory Instrument No. 72 of 2003.

also have been threatened, except that it has not been successful in having its lands recognized through the court, and so should be protected from losing its lands.

v. Intrusions from outsiders and parcelization through leasing or grants in community lands

59. In the customary system, people must belong to the community to be able to gain usufruct property rights. For this reason, Maya communities often charge a kind of entrance fee to the community to ensure the commitment of newcomers to participate in community well being. Significantly, even those born in the village who have moved away but want to come back also have to obtain such permission. This underscores the cultural norm that land is for those who use it, and village membership is for those who adhere to customary norms and participate. What Maya communities object to is the idea that outsiders might appropriate their natural resources without any respect for reciprocal or community obligations to those that live there.

60. Tied to these fears is a deep concern among the Maya about the fate of future generations. Under the customary Maya system, upon death a person's usufruct land rights typically revert to the community. This means that young people can acquire land from the community, not necessarily from their parents. Cultural norms require that all young people have an equal right to land in the future; they are not constrained by whether or not their father happened to be wealthy.

61. Another important theme surfacing in the affidavits is the high cost of Belizean statutory land rights, specifically leasing. From past experiences, Maya village residents are aware of the dangers of loans for cash crops, for they understand if they should lose their land that would mean the loss of their livelihood as well. GPS surveying is exorbitantly expensive and makes little sense to people who have respected each other's land holdings for generations without any formal measurement. The cost of Bz \$500 for a survey is exorbitantly high for rural farmers, who earn just Bz \$20-\$30 a quintal for corn or Bz \$25 for a sack of rice. Because their cash income is so low, Maya farmers residents understand clearly the risks of taking loans for surveying land (see for example Slivino Sho's affidavit). Taking a bank loan to pay for the measurement could endanger a household's entire future should they not be able to make the payments.

62. Leasing advocates assert that such costs are justified since leasing will enable farmers to access credit and therefore development opportunities. In some cases this may be true, but in many other instances, credit schemes have been poorly implemented and resulted in farmers having to forfeit their land. One recurring theme in the hundreds of migration histories I collected in Belize and Guatemala was land foreclosure due to defaults on ill-conceived loans and problems beyond the farmers' control. For example, a research team found that many small farmers were threatened with land forfeiture as a result of loan problems related to the Toledo

Small Farmers Development Project (1989-1995).⁶ Worldwide, multiple anthropological studies show that dispossession is a common result of parcelization schemes on indigenous lands.

63. Maya peoples in Toledo have expressed repeated concerns about the threat of land speculation, as exemplified in their protests against the paving of the Southern highway. Certainly in other regions of Belize, land speculation fomented by wealthy expatriates is a pressing problem for local peoples whose home regions have become popular tourist destinations (such as the Cayes or the Cayo District). In Belize, many outsiders are buying land for citrus plantations, eco-tourism, and church missions.

64. Politicians and other government officials have told Belizean Maya farmers that if they do not apply for leases they will lose access to their land. For example, Manuel Coy explains in his affidavit that villagers from Conejo applied for leases only after a government representative pressured them to do so saying, “Some people in the village signed; maybe they applied for leases because they got scared and thought that their land would be sold.” Lacking a mechanism to gain collective land security as a village, individuals do apply for leases—not because this is their first choice, but because this is the *only* choice they perceive that will provide them with state-sanctioned land security.

65. Indeed, after I examined all of the entries in the Toledo lease application books from 1950-2003, it became clear to me that Maya people applying for leases tended to do so in village clumps, meaning that many people from the same village would travel together and apply for individual leases on the same day. In fact, during the week I examined the books in the Punta Gorda Lands Office, I noticed that most Maya farmers stopping by the office to check on their leases also arrived in groups. Although the leasing process pushes Maya people towards individualism and private property, they still prefer to deal with land concerns as a collective. As I examined the land books, I noticed the names of some village elders on these applications who had explicitly told me that they preferred the customary system of land management and felt that private land ownership had detrimental social and environmental impacts on their community. I later questioned several of them about why they had applied for leases. These elders explained to me that, while they do want village lands to remain managed under the customary and communal system, they fear that these lands will be taken from them if they do not apply for leases. In this case, a local politician had encouraged them to apply for land. So, although they oppose the leasing system, they submit to it out of fear of dispossession. As noted by several claimants, especially Manuel Coy, they feel significant political pressure to apply for leases.

66. The granting of leases within Maya villages in Toledo has caused conflict between villagers who have leases and those who do not. The Lands Office grants leases for plots of land without first inspecting them to see if someone else is already farming on them, which often results in effective expropriation of customary property, and economic loss from being denied access to land that they have tended to for decades. These farmers may also lose their

⁶ James G. Thompson, Stanley Nicolas, Joseph Palacio, and Roger Coupal. “A Policy Analysis of Small Farmer’s Loan Problems In Aguacate and Blue Creek Villages, Due to the Toledo Small Farmers Development Project, 1989-1995.” Paper submitted to *Journal of Belizean Affairs*, University College of Belize, Belize City June 2000. 11 pp.

investments in soil conservation or valuable long-term tree crops without receiving compensation. During the three months I lived in the villages around the Sarstoon-Temash National Park in 2004, I repeatedly documented in my fieldnotes the occurrence of these adverse effects in those Maya villages. One Maya farmer I spoke with was distraught that he had lost several hundred cacao trees to another community member who applied for a lease on the same land. The leaseholder threatened to kill this farmer if he pressed his claim for compensation for the cacao trees. Other Maya farmers have lost their fruit trees to wealthier Maya villagers who have established cattle pastures on river lands. These conflicts foreshadow the massive land dispossession of Maya people happening today in Guatemala, as described below.

i. Lessons from Imposed Parcelization on Maya Lands in Guatemala

67. In recent decades, multiple projects financed by multilateral lenders, including the IADB and World Bank, have promoted land-titling projects in developing countries as a method of “market-assisted” agrarian reform. With a \$32 million loan from the World Bank, between 1998 and 2006, the Guatemalan government mounted an ambitious land survey project in the neighbouring department of Petén. Without having evaluated the many social and ecological impacts of this Petén cadastral project, the Guatemalan government accepted another World Bank loan of \$62 million in December 2007 to expand the project to six other departments, including all Q’eqchi’ regions of settlement. Described in much greater detail in my dissertation and forthcoming books, I summarize a few of the problems I witnessed in the first phase of this legalization program in Petén.

68. During this imposed land parcelization process, no social or educational projects have been implemented to help communities discuss the value of their land or explain the principles and procedures of inheritance. More importantly, there are no legal mechanisms to protect individuals against aggressive land speculators. The governmental Cadastre/UTJ program does not allow the Maya to legalize their lands communally.

69. Rather than stabilizing the use of land for agriculture, this World Bank legalization project often had the opposite effect of encouraging the Maya to sell their lands. For every family that could not afford US\$300 to have their land surveyed, there was a cattle rancher or someone else willing to pay this fee in exchange for some or all of the family’s land. In some regions of northern Petén, villagers are ceding their survey rights for as little as US\$130 per 45 hectares, a mere fraction of the value of the land. In other instances, powerful ranchers have acquired survey maps and are buying up land as fast as it is being legalized.

70. In contrast, within the customary land management system of the Maya, the usufruct rights of households do not permit individual farmers to sell single plots of land without the permission of the village, either through a meeting of all heads of household or through a meeting with the village elders. The village mayor alone could not give this permission, because in the Maya cultural norm of community leadership, a good mayor does not dictate his/her own decisions but rather acts as a spokesperson of the general will of the village families. Quite often, the counsel of other community members, especially elders, can prevent a young person from unwisely selling their lifelong subsistence base for money that will quickly run out when used to purchase items on the market. The counsel of village leaders can also help prevent an illiterate farmer from signing papers he or she does not understand.

71. By contrast, when land is privately titled, the decision to sell it or not becomes an individual matter, and the consequent pressures to sell come to bear on individuals. In chapters six and seven of my dissertation, I describe in detail the unfair techniques that cattle ranchers use to buy land from Maya farmers in Guatemala. Maya farmers who have sold their land to cattle ranchers have repeatedly told me that they regretted their decision in hindsight and wished that someone had warned them against doing so. Had their land remained a part of a customary and communal land management system, they would not have been left so vulnerable and would have been better able to resist such pressures.

72. Contemporary land dispossession in Guatemala has had at least three adverse effects. First, it has resulted in the concentration of landholdings for wealthy outsiders such as cattle ranchers who can afford to pay for land surveys and who await opportunities to buy the lands currently being titled to smallholders at discounted rates, and the consequent increase of the landless population. In a 2001 survey, the Guatemalan National Institution of Statistics found that, of the 1000 households surveyed, one-third of Petén's farming families were landless and forced to rent or borrow land from season to season.⁷ Since then, with the implementation of the World Bank titling projects, the percentage of landless rural families has grown. Second, as an outlet for the growing number of landless rural peoples, it has fuelled a new wave of organized land invasions by peasant organizations on private properties. Third, agricultural squatters have appeared inside Petén's protected parks because many of these landless rural families have nowhere else to go. The numerous park invasions along roads built by and for petroleum extraction in the Western part of the Maya Biosphere Reserve have turned the Laguna del Tigre National Park and the Sierra Lacandón National Park into ungovernable regions. There are now simply too many squatters to resettle elsewhere, so the national park service has virtually abandoned control of large areas of national park land.

73. I anticipate that any legalization process for land in Toledo that fails to take account of and respect the customary land tenure system will result in similar adverse effects. Current legalization schemes in Belize, such as the promotion of leasing under the National Lands Act, advocate private land control that undermines traditional indigenous land management systems, and essentially aims to privatize land. The IADB's leasing programs in Belize shares the same mistaken ideological foundation as World Bank's land titling programs in Guatemala that "ordering" land resources through surveying will somehow lead to development.

74. Thus far land titling in Guatemala has been followed by land speculation and dispossession. The reason for this was not land titling per se, but the removal of community participation and decision-making on how their lands would be used. It is my opinion that organizing community land titling projects could be compatible with Maya customary rights and land management practices, but only if the communities are the primary decision-makers about how they want to manage the lands they have used historically for subsistence. In the next

⁷ Grandía, L., N. B. Schwartz, A. Corzo, O. Obando, and L. H. Ochoa. Salud Migración y Recursos Naturales en Petén: Resultados del Módulo Ambiental en la Encuesta de Salud Materno Infantil 1999 (Macro Internacional Inc., USAID, Instituto Nacional de Estadística: 2001).

subsection, I want to describe some innovative land titling work in the Chisec region of Guatemala by a Q'eqchi' organization called SANK (Sa Qa Chol Nimla K'aleb'aal, "Harmony in our Community") that built upon and respects the strengths of the customary land management system. This case illustrates the possible co-existence of a mixture of land tenure, led by community-decision making and a respect for customary rights, and may be applicable to the Maya plaintiffs' case before this court.

ii. A Positive Alternative from Guatemala

75. The SANK project began under similar conditions to those communities in southern Toledo involved with the co-management of the Sarstoon Temash National Park. Like them, several Q'eqchi' Maya communities in Chisec, Guatemala, wanted to exercise some control of cultural heritage sites such as the Candelaria caves in the northern Chisec municipality of Alta Verapaz.⁸ They wanted to secure their land tenure in response to threats by a French hotel owner who had squatted in the area and claimed the caves as his private ecotourism domain. With the support of a USAID-financed anthropologist, Anthony Stocks, the communities gained co-management rights from the Ministry of Culture. Working through the local Q'eqchi' NGO SANK, Stocks and his team trained the villages in the use of GPS technology, which saved considerable expense from otherwise having to hire private technicians to demarcate the communities. (Such GPS training for communities is not difficult. Working with SATIIM, I myself successfully taught several Maya field assistants how to use a GPS and SATIIM has had other positive experiences in GPS training). Each village then developed a unique natural resource management plan to protect the forests around the caves consistent with their customary norms. They all chose communal areas for firewood, medicine, and hunting – and some also considered a reserve area for future generations, as described below:

- Mucbilha model. (Hilly land). The community area was divided into large parcels for the original settlers. The community maintains one forest "reserve" that constitutes a commons where people collect materials and hunt.
- Babilonia model. (Flat and hilly land). The community is completely parceled, except for its forest reserve like the Mucbilha model. However, the parcels are small and families may have several parcels assigned in the hilly portions as well as its lowland parcel.
- Candelaria model. (Flat and hilly land). The flat *milpa* area is completely parceled to the original settlers, but the hilly lands contain work areas (parcels) where people find additional possibilities to farm. Forested land in steep topography remains in a commons.
- Papayas model. Newly settled communities in totally hilly areas often have not formally divided up the land. Each family has a place that they work and the rest of the land is a commons.

76. The Guatemalan government then offered the communities a reduced price for land they promised to maintain in forest (for example, the areas around the Candelaria caves), but also left them permission to plant environmentally-friendly crops like shade coffee, cardamom, and cacao under the forest canopy. As the project leader Anthony Stocks concludes, what the SANK

⁸ Some hypothesize that the network of caves in Chisec, locally called *La Candelaria*, might be the underground world depicted in the Maya origin story of the Popul Vuh, because they both have seven entrances.

experience showed was that when the context was right, “the ability to base community management of resources on a common moral framework reappeared as an important part of the cultural repertoire.”⁹ The project sets an important precedent for land distribution and conservation in Guatemala.

77. The key innovation of the Chisec project was to move beyond simplistic and polarizing debates about communal versus private land, when in fact the Maya customary system already accommodates aspects of both. Rather, it took into account the advantages of both modes and worked with the communities’ normative framework, including indigenous decision making processes like consultations with elders, to make the plans coherent with each village’s preferences and customs. Moreover, it explicitly built in a pricing structure that encourages conservation and discourages speculation. It also reinforced the capacity of communities to protect themselves from outside interests, which as historian Michael Bertrand argues, has been the central advantage of communal land since the colonial period.¹⁰

Conclusion

78. Archaeological, historical and anthropological sources demonstrate that Maya people have occupied the southern regions of what is now Belize for hundreds if not thousands of years. At the time of European contact, the area was inhabited by the Manché Ch’ol and Mopán Maya sub-groups, and was at least frequented by their Q’eqchi neighbours. As a result of Spanish actions, these groups were disrupted and displaced, and the cultural and political distinctions between them were blurred. Many Manchu Ch’ol were forcibly relocated into Q’eqchi territory in Verapaz, and significant intermixing occurred in the centuries after contact. However, Manché Ch’ol and Mopán traditional knowledge of the area continued to be passed down, and this knowledge was evident as the Maya returned in numbers to southern Belize in several distinct waves. The speed and ease with which Maya people were able to establish settlement in this ecologically distinct region, and the fact that in Toledo there appears to be continuity in traditional knowledge and land management between the Ch’ol and the Mopán and Q’eqchi’ groups in Belize today, demonstrates the continuity of Mopán and Manché Ch’ol knowledge and norms with those of the present occupants.

79. From my own academic and field research and from the evidence provided by members the claimant villages, it is clear that the Maya villagers in Toledo continue to use and occupy their land in accordance with long-standing customs, traditions and norms concerning land management. These norms include collective control over land use; equitable distribution of

⁹ Stocks, A. 2002. "The Possibilities for Q’eqchi’ Community Conservation in Chisec Municipality, Alta Verapaz, Guatemala." American Anthropological Association conference, Chicago, Illinois, page 17.

¹⁰ Bertrand, M. 1989. "La Tierra y Los Hombres: La Sociedad Rural en Baja Verapaz Durante Los Siglos XVI al XIX," in *La Sociedad Colonial en Guatemala: Estudios Regionales y Locales*. Edited by S. Webre. La Antigua: CIRMA, Centro de Investigaciones Regionales de Mesoamérica y Plumsock Mesoamerican Studies.

individual use rights based on need and family labour capacity; ecologically sound rotating and permanent agriculture, animal husbandry, hunting, and gathering; and reciprocal obligations of land and community stewardship. These land tenure norms are central to the cultural worldview and social cohesion of the Maya people. The resulting system manifests in flexible but consistent land-use patterns involving residential areas, wet-season *milpas* and dry-season *sagiwaj* or *matahambre* areas, long fallow areas and high forest areas. Maya land tenure practices are sufficiently hegemonic and stable that people living in Maya communities in Toledo have been able to make long-term economic investments in the form of annual and permanent crops, yet flexible enough to allow Maya farmers to respond to market opportunities to the extent that, through the history of Belize, Toledo has often been the primary source of national foodstuffs.

80. Because of their hard work, strong subsistence ethic, normative coherence and access to communal forests, Maya communities have managed to create a good life for themselves in Belize as compared to Guatemala. When I began my fieldwork in Belize in October 2003, I was repeatedly struck by the better standard of living that the Maya possess in comparison to their Guatemalan neighbours. The Guatemalan-Q'eqchi' have suffered repeated land dispossession and are noticeably more poor and malnourished. Through their own customary law, Maya communities in Toledo have managed their land sustainably despite isolation, poor soils, hurricanes, and the zealotry of colonial officials to "fix" Maya agriculture.

81. Ironically, the stated goal of so many development projects - collective, participatory decision-making - already lies at the heart of Maya agricultural systems, their attitude towards the environment, their social structures, and their economy. The Maya have developed and maintained a sophisticated land tenure system that is not only well adapted to fragile tropical ecosystems but also promotes social equity. First and foremost, Maya custom centers primary decision-making power over how they want to manage the lands they have used historically for subsistence farming communities.

82. This stable, productive, and culturally accepted land tenure system is threatened by government actions that view it as primitive, ecologically unsound, or an obstacle to progress. Today, the Maya land tenure system in Belize faces serious threats from the imposition of a leasing system; intrusions by outsiders who do not respect customary practices and authority; petroleum extraction; national parks; timber concessions; bank foreclosures; and possible future threats such as bioprospecting. All of these threats exist or are exacerbated by the lack of formal legal recognition of customary land tenure and the rights Maya farmers enjoy under that system.

83. The experience of Guatemala and other countries that have imposed parcelization of indigenous lands through individual private leases or grants has universally resulted in: massive dispossession and the transfer of their land base to dominant ethnic groups; greater poverty and landlessness among the indigenous people concerned; and increased ecological degradation of indigenous lands, and, in the case of Guatemala, protected parklands as well. As a tool for economic development and poverty reduction among indigenous peoples, parcelization of indigenous lands has proved worldwide to be a failure. However, as illustrated by the Chisec case, alternatives that are respectful of Maya customary rights and decision-making processes are both possible and realistic, and demonstrate much greater economic potential and environmental stewardship.

84. While completing research and fieldwork in Belize, I was continually impressed by the vibrancy of citizen participation in civil society. With such a distinctive democracy and multicultural society, surely it is possible for Belize to find a way to respect the rights and culture of its indigenous citizens and their customary land management system.

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SWORN BEFORE ME at the City of
Worcester, in the State of
Massachusetts on May 3, 2009.

Notary

Elizabeth Mara Grandia

This affidavit is filed on _____, 2009 on behalf of the claimants.