

The Case of the Santa Cruz 13

In 2014, a Belizean man named Rupert Myles moved to the village of Santa Cruz. Specifically, he moved into the home of his Maya girlfriend — without the permission of the village and in contravention of Maya customary law and land tenure. Soon after, the man began to build a home in the village, once again without permission.¹⁴ The land he is building on, is an archeologically protected site, known as Uxbenka - a Maya temple. The man is building his home atop the temple, which he bulldozed over.

Village leaders repeatedly asked the man to stop but he refused. The village Alcalde called Punta Gorda police, but they refused to arrest the man for trespassing or property damage.¹⁵ In June of 2015, a decision was made, by vote of the village, to disassemble the structure atop the temple and evict the man from the community. The man was notified in advance.¹⁶ On the morning of the demolition, the man stormed into a community meeting, physically assaulted the Alcalde and threatened to shoot several villagers if they did not let him have the land - before reaching into a vehicle where he is known to keep a rifle.¹⁷ The Alcalde, who is authorized to arrest and convict rule breakers under Belizean law, detained the man in handcuffs so he could not carry out his threats.

Then the Alcalde called Punta Gorda police, who refused to aid the village yet again. After a few hours, the man promised to leave the site, so the community let him go. But instead of leaving, the man called police, claiming he'd been kidnapped and tortured.¹⁸ Four days later, the police arrested 12 villagers, including the Alcalde that authorized the arrest, as well as the village police who detained Mr. Myles, and the co-chair of the Maya Leaders Alliance (“MLA”), Cristina Coc, who did not actually participate in Mr. Myles’ detention. Cristina is the public spokesperson for the MLA - the leading litigant in the majority of land rights cases. All were charged with false imprisonment, and eventually assault, as well as aggravated assault. Bail was set at 10,000 US each.¹⁹

Maya Land Rights Are Being Violated

Discrimination against indigenous communities and persons can take many forms. It can be explicit or implicit, fleeting or structural; the product of unconscious mistakes, professional incompetence, or malicious targeting. Legally sanctioned discrimination typically occurs through laws that are facially discriminatory or laws that are facially neutral with adverse effects on indigenous peoples.²⁰ In Belize there is a third source of discrimination: the explicit and systemic refusal on the part of public officials to respect, apply, and uphold the rule of law, as it pertains to the Maya people.

For example, in order for the alleged incident to have occurred, Mr. Myles

needed to remain in active commission of the following crimes: threats to destroy property, possession of equipment with intent to destroy property, and destruction of property under the *Criminal Code*;²¹ willful destruction of an ancient monument and willful removal of materials from a designated archeological site under the *Ancient Monuments and Antiquities Act*;²² trespass on Maya lands under the *Inferior Courts Act*;²³ violating Maya customary land tenure rules that have been constitutionally protected through the common law;²⁴ and a range of additional harms under Maya customary law.

Maya Land Rights Are Constitutionally Protected

What is perhaps most appalling is that the incident and related arrests occurred seven years after the Maya won a title declaration in the Supreme Court, which extended the constitutional protections afforded property to Maya title.²⁵ The arrests also occurred just eight weeks after the Government of Belize was ordered by the Caribbean Court of Justice, to develop the measures necessary to protect the property rights of the Maya, in accordance with Maya customary laws and land tenure practices; and to cease any acts - whether by the government itself or third parties acting with its leave, acquiescence or tolerance – that might adversely affect the value, use, or enjoyment of the lands that are used and occupied by the Maya villages.²⁶

Officials Refuse to Prosecute Trespassers on Maya Lands

Mr. Myles was detained on Saturday, June 20th, 2015. The next day, photos of Mr. Myles in handcuffs were posted on Facebook. In the photos, which were taken immediately after the alleged physical assaults are said to have taken place, Myles is standing, smiling, and posing for cameras.²⁷ In the accompanying video interview, which took place while he was still handcuffed, Myles walks around the village, argues that he has a constitutional right to live where ever he wants, and even pulls out a pack of gum.²⁸ Some villagers are seen seated around him, walking past, or watching the camera crew – while waiting for police to arrive. Myles has no visible scrapes, cuts, wounds, bruises, or broken bones. When asked, he cannot recall who put the handcuffs on him without the assistance of someone off camera, but claims to remember being assaulted by the village chairman whom he accuses of discriminating against him on the basis of race. Finally, he does not dispute bulldozing over the temple, or that the temple is a protected site. He also admits making threatening statements against villagers, when told the structure he constructed was to be disassembled.

On Tuesday, June 23rd, Prime Minister Dean Barrow made the following statement during a television interview,

In my view they've lost whatever moral high ground they ever had... Tying up this man, falsely imprison him, physically assaulting him - that is absolutely intolerable and I am telling you, I mean to find out from the appropriate

authorities what if anything they mean to do about it.²⁹

On Wednesday, June 24th, members of the Gang Suppression Unit stormed the village of Santa Cruz in a pre-dawn raid. Later that day, 12 villagers were charged with the crime of “false imprisonment” – an offence that does not exist in the Belizean criminal code.³⁰ Seven months later, another villager was charged, despite the limitation period for summary offences having expired.³¹ On July 24th, 2015, amidst mounting international pressure to respect the rights of the Maya, the Director for the Institute of Archaeology, John Morris, confirmed that Mr. Myles had destroyed the temple, in contravention of state law, and that criminal charges, as well as civil damage claims, would be pursued.³² On February 20th, 2016, when asked why charges had still not been laid, Mr. Morris explained that the Director of Public Prosecutions requested he settle the matter out of court, by negotiating with Mr. Myles to leave the site.³³ On April 1st, 2016, Mr. Morris declared that Mr. Myles had left the village, there would be no criminal charges or civil claims, and that the damage to the Uxbencha site had not been caused by Mr. Myles after all, but by a Maya villager.³⁴ On April 14th, the Santa Cruz village issued a press release through the MLA, affirming that Mr. Myles was still living atop the temple.³⁵

There Was Insufficient Evidence To Charge The SC13

Prior to June 20th, the village of Santa Cruz, with support from the Toledo Alcaldes Association, Maya Leaders Alliance, and legal counsel for all three, sent multiple letters to the Punta Gorda Police, Belizean Defense Force, and Institute of Archeology (“IOA”), requesting the removal of Mr. Myles from the village.³⁶ Neither the officers, who are tasked with protecting property, nor the IOA which is tasked with protecting the specific archeological site, responded to the request. A few months later, the Punta Gorda Police and IOA were notified in writing that the structure erected by Myles was to be disassembled on June 20th.³⁷ They did not respond. The police notices were sent to Superintendent of Police, Mr. Simeon Alvarez.

In his police report, Mr. Myles explains that he called Supt. Alvarez, notifying him of his intention to oppose the demolition. He also claims Supt. Alvarez responded by saying, ‘if they infringe your rights, you can take them to court.’³⁸ On the day of the incident, after Mr. Myles was detained in handcuffs, rather than call a session of the Alcalde court, the Alcalde called three different police stations to transfer the prisoner, all of whom refused to aid the village - with the Punta Gorda department claiming its squad cars did not have gas to make the trip to Santa Cruz.³⁹

In other words, state officials knew of Mr. Myles’ crimes and made a conscious choice not to investigate, lay charges, or otherwise intervene in an escalating dispute, despite a legal duty to do so. None can claim ignorance of the law, since the SC13 are essentially charged with some of the same offences Myles

committed but was not prosecuted for at the request of the country's highest ranking prosecutor. This leads to the inexorable conclusion that the SC13 trial is a malicious prosecution – an effective denial of the constitutional rights of indigenous persons to: the protection of law, equal protection under the law, as well as the right to a fair trial, since the later presumes criminal charges laid in good faith.

Mr. Myles' Detention Was Permitted By Statue

Whether the Crown elects to argue the assault against Mr. Myles occurred through the torture alleged or simply through the act of detaining him in handcuffs and/or intimating that he would be detained in handcuffs, various statutory authorizations permitted his detention. First, pursuant to the Criminal Code, every citizen is authorized to use force against another person when necessary for the prevention or defense against crime.⁴⁰ This authorization extends to the protection of self or others.⁴¹ For the SC13, or at least those among them that were actually involved in the detention, necessity was born out of Mr. Myles' death threats, the bullet magazine poking out of his pocket, and the rifle he was known to carry in his car.⁴² These threats also occurred in the context of a meeting where a former friend of Mr. Myles, was testifying that Mr. Myles expressed having "a hundred rounds of ammo" with which to shoot anyone who went near the structure he built on Uxbencha.⁴³ Secondly, the Criminal Code provides the same authorization for the defense of property, which is relevant since Myles was in the active commission of multiple property crimes at the time of his detention.⁴⁴

Mr. Myles' Detention Was Authorized By Customary Law

Maya customary law authorizes Alcaldes and village police to arrest troublemakers in the community. In 2011, the full range of powers accorded both was documented in the Alcaldes Bill, a document used by Maya communities that has also been shared with state officials working to understand customary law.⁴⁵ The customary jurisdiction of Alcaldes and village police over criminal and civil matters has been partially incorporated into the Inferior Courts Act (ICA) of Belize.⁴⁶ The ICA recognized the indigenous juridical systems in each village, as well as the Alcaldes who preside over each Alcalde Court. Finally, the *ICA* recognizes the jurisdiction of Alcalde Courts over the following crimes: (a) riotous or mischievous act causing damage or annoyance to any person.⁴⁷ Myles conduct fell under each of the above categories on June 20th.

That said, the statue does not specify whether the common law powers of Alcaldes to arrest exist only in relation to formal charges before an Alcalde court, or even when a court is not in session. Presumably, it is the latter, since charges must be brought before a court case can be scheduled. Another concern is that the ICA does not formally recognize village police, even though it imposes the burden of policing on Alcaldes, who must bring those accused of crimes to trial and

transfer them to local police when charged with more serious crimes. Informally however, all state officials recognized village police powers prior to the incident with Mr. Myles. For example, state police have been training village police and equipping them with batons and handcuffs for decades.⁴⁸ The website of the Belize Government even characterized the Alcalde system as “part of the local government structure of Belize,” with Alcaldes supported by “five voluntary village police.”⁴⁹

The Common Law Supports Mr. Myles’ Detention

Courts in Belize have taken judicial notice of the Alcalde system as “a system of local government leadership among the Maya.”⁵⁰ However, the scope of powers falling to Alcaldes has never been addressed in the jurisprudence. Still, each of the 39 villages have a constitutional right to customary land title, delineated pursuant to Maya customary land tenure.⁵¹ These rights, at the very least, give must rise to enforcement powers, particularly when the state abdicates its constitutional obligation to protect the Maya from trespassers issuing death threats. On the facts and laws at issue in this case, there appears to be no cause for charge against the villagers.

Endnotes:

¹⁴ Patrick Jones, “Maya Leaders Alliance Issues Statements on Santa Cruz Incident,” (June 22, 2015) Online: West Vision News <<http://www.westvision.bz/maya-leaders-alliance-issues-statement-on-santacruz-incident/>>

¹⁵ Michael Reid, “A Wicked Agenda,” (July 14, 2015) Online: Belize Times <<http://www.belize-times.bz/?p=23803>>

¹⁶ Ibid.

¹⁷ Cultural Survival, “13 Maya Villagers Stand Trial in Belize,” (March 10, 2016) online: Cultural Survival <<https://www.culturalsurvival.org/news/13-maya-villagers-stand-trial-belize>>

¹⁸ *Supra* note 14.

¹⁹ Kareem Clark, “GOB raid Santa Cruz Maya,” (June 26, 2015) Online: Amandala News <<http://amandala.com.bz/news/gob-raids-santa-cruz-maya/>>

²⁰ R. v. Big M Drug Mart Ltd., [1985] S.C.J. No. 17, [1985] 1 S.C.R. 295

²¹ Criminal Code of Belize, CAP 101, Laws of Belize, 2000, s. 132

²² Ancient Monuments And Antiquities Act, CAP 330, Laws of Belize, 2000 at 32.

²³ Inferior Courts Act, CAP 93, Laws of Belize, 2000, s 73.

²⁴ *Supra* note 11.

²⁵ *Supra* note 11.

²⁶ Maya Leaders Alliance et al., v Attorney General of Belize, CCJ Appeal No BZCV2014/002, 2015

²⁷ San Pedro Sun. “Dispute between Villagers of Santa Cruz and Rupert Myles Grows,” (July 1st, 2015) Online: San Pedro Sun <<http://www.sanpedrosun.com/entertainment/2015/07/01/dispute-betweenvillagers-of-santa-cruz-and-rupert-myles-grows/>>

²⁸ PGTV News Network. “PGTV News Hour” (June 25, 2015) Online: Vimeo <<https://vimeo.com/131665863>>.

²⁹ Channel 7 News Belize, “PM says ‘Outrageous’, Mayans say ‘Justifiable,’” (June 23 2015) Online: News Belize <<http://www.7newsbelize.com/sstory.php?nid=32845>>.

³⁰ Ambergris Caye, “Inside the Arraignment of the Santa Cruz 13,” (June 26, 2015) Online: Ambergris Caye, <<http://ambergriscaye.com/forum/ubbthreads.php/topics/505507/inside-the-arraignment-of-the-santacruz-13.html>>

- 31 Channel 7 News Belize, “Old Charges Dropped Against Santa Cruz 13,” (December 16 2015) Online: News Belize <<http://www.7newsbelize.com/sstory.php?nid=34628>>.
- 32 Channel 7 News Belize, “Dr. Morris Confirms That Myles Damaged Uxbenka,” (July 24, 2015) Online: News Belize <<http://www.7newsbelize.com/sstory.php?nid=33174>>.
- 33 Adele Ramos, “DPP to prosecute Santa Cruz villagers,” (February 20, 2016) Online: Amandala Newspaper <<http://amandala.com.bz/news/dpp-prosecute-santa-cruz-villagers/>>
- 34 Breaking Belize News, “Institute of Archeology Settles With Rupert Myles Out of Court,” (Friday, April 1, 2016) Online: Breaking Belize <<http://www.breakingbelizenews.com/2016/04/01/ioa-settles-rupertmyles-awaits-noh-mul-ruling/>>
- 35 Maya Leaders Alliance. “Press Release on New Civil Actions” (April 14, 2016) Online: Cultural Survival <<https://www.culturalsurvival.org/news/maya-villages-sue-government-belize-failing-protect-indigenouslands>>.
- 36 West Vision News, “Rupert Myles Previously Advised of Illegal Occupation,” Online: West Vision <<http://www.westvision.bz/rupert-myles-was-previously-advised-of-his-legal-status-in-santa-cruzvillage/>>.
- 37 *Ibid.*
- 38 Rupert Myles, “Statement to Police, June 23rd, 2015,” Crown Disclosure Package (unpublished).
- 39 Manuel Pop, “1st Alcalde of Santa Cruz Village Witness Statement,” June 21st, 2015 (unpublished).
- 40 *Supra* note 18 at 31(f).
- 41 *Ibid.*
- 42 Manuel Pop, “1st Alcalde of Santa Cruz Village Witness Statement,” June 21st, 2015 (unpublished).
- 43 Santa Cruz Village Community Forum, “June 20th, 2015 Village Meeting Audio Notes,” (unpublished MP3).
- 44 *Supra* note 18 at 31(g).
- 45 Alcaldes Bill (2011), Toledo Alcaldes Association, s. 14.
- 46 *Supra* note 23.
- 47 *Ibid.*
- 48 Alfonso Cal, “Witness Statement, President of the Toledo Alcaldes Association, February 19, 2016,” (unpublished).
- 49 Government of Belize, “Local Government”, (April 15, 2016) Online: Governmental Portal <<http://www.belize.gov.bz/index.php/our-governance/how-we-are-governed/local-government>>.
- 50 Minister of Natural Resources v Maya Leaders Alliance et al., 27 Court of Appeal of Belize 2011 at 300.
- 51 *Supra* note 26.