

Conservation Letter

Belize-Guatemala territorial dispute and its implications for conservation

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Abstract

Guatemala has claimed Belizean territory for 150 years, ever since the colonial era. While several attempts have been made to settle this dispute, with no final resolution, several problems both on the land and sea still exist, including illegal settlements, illegal logging, illegal hunting, illegal fishing, illegal harvesting of forest products, illegal farming, illegal land subdivisions, loss of property and threat to human life. These problems have created conflict between the two nations along with a series of confrontations among the military forces, communities, and fishermen in the two countries. A proposal facilitated by the Organization of American States for confidence-building measures between the two countries did not succeed. Both countries now seek to finalize the settlement at the International Court of Justice. This paper introduces the issue with a summary of the history of Belize's territory and the origins of the claim, followed by a summary of the treaties and negotiations agreed to between the two countries, important elements of the Belize Maritime Act, and a discussion of the implications for conservation and efforts made to resolve this conflict.

Key words: territorial sea, exclusive economic zone, Maritime Areas Act, Belize, Guatemala

Resumen

Guatemala ha reclamado territorio de Belice por 150 años, desde la época de la colonia. Mientras algunos intentos se han realizado para arreglar esta disputa, sin solución alguna, problemas tanto en tierra como en mar aun existen, incluyendo asentamientos ilegales, la tala ilegal, la caza ilegal, la pesca ilegal, extracción ilegal de productos forestales, la agricultura ilegal, subdivisiones ilegales de tierras, la pérdida de la propiedad y la amenaza para la vida humana. Esto ha creado una serie de confrontaciones entre las fuerzas militares, comunidades y pescadores en ambos países. Una propuesta facilitada por la Organización de Estados Americanos (OEA) para generar confianza entre los dos países fracasó. Ambos países ahora buscan finalizar el arreglo en la Corte Internacional de Justicia. Este documento establece el hecho conjuntamente con un resumen de la historia del territorio de Belice, los orígenes del reclamo, seguidas por un resumen de los intentos y negociaciones acordadas entre los dos países, asimismo, elementos importantes del Acto Marino de Belice referente a este asunto, y unas discusiones de sus implicaciones en la conservación y esfuerzos realizados para resolver este conflicto.

Palabras clave: aguas territoriales, zonas económicas, Acuerdos de Areas Marítimas, Belice, Guatemala

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Introduction

History of the Belizean Territory

Belize, a small English-speaking nation in Central America, formerly known as British Honduras, was first inhabited by the Mayas who still live in different parts of the country today. They were the native inhabitants of southern Mexico, Belize, Guatemala, El Salvador and northern Honduras. [1]. The Spanish, who colonized most of Central and South America since the 14th century, claimed Belize, as granted to them by the Pope (Leader of the Catholic Church). However, they never settled in Belizean territory as they failed to permanently subdue the Mayas. On the sea, the Belize barrier reef allowed British pirates to hide and rob Spanish ships while they were on their way out of South America. In 1670 however, the Treaty of Madrid ended piracy and the British settled to cut logwood but then switched to mahogany. Logwood was used to supply the dye industry in Europe in colonial days. Mahogany is a hard precious wood used to make furniture. The latter required them to move farther inland to import more Africans as slaves [2].

At this point however, the Spanish still maintained a claimed over Belizean territory and attacked the British settlers on different occasions. Yet, in 1763 and 1783, the Spanish granted rights to the British to cut and export logwood from the Rio Hondo River to the Belize River though the Treaty of Versailles and up to the Sibun River in 1786 (Figure 1). However, "they were not allowed to build forts, to govern themselves, to engage in agriculture, or to do any work other than woodcutting. In addition, this Treaty gave the Spanish the right to inspect the settlement" [3], which they did between 1787 and 1796, but the outbreak of war in Europe ended those inspections. Consequently, while still acknowledging Spain's claim of sovereignty over Belizean territory, the British settlers established "de facto" sovereignty at the beginning of the 19th century and extended the limits set by the 1786 agreement [2]. The Spanish attacks continued until 1798 which marked the last attack, as the British won what is known today as the Battle of St. George's Caye. By the 1820s, when various countries in Latin American became independent from Spain, the 4,000 British settlers in Belize had penetrated as far as the Sarstoon River [3] (Fig. 1).

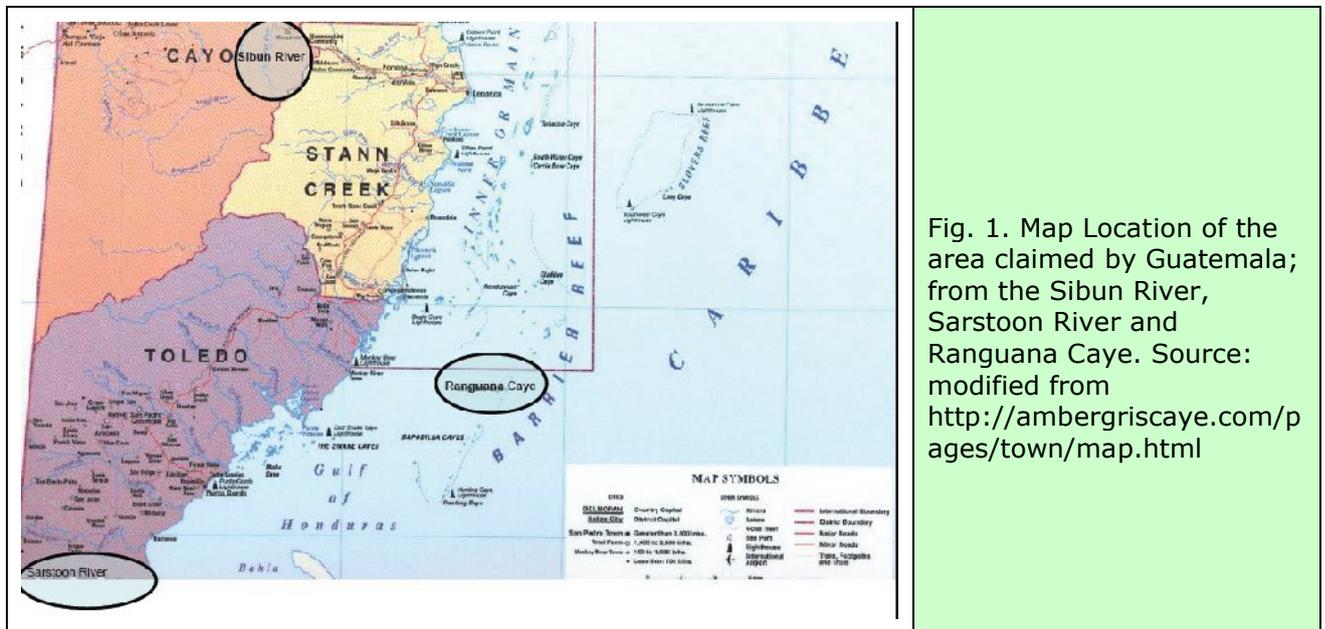


Fig. 1. Map Location of the area claimed by Guatemala; from the Sibun River, Sarstoon River and Ranguana Caye. Source: modified from <http://ambergriscaye.com/pages/town/map.html>

The Guatemalan claim and negotiations

In 1839, after the United Provinces of Central America was dissolved, Guatemala claimed sovereignty over Belize as an "inheritance" from Spain, a claim rejected by the British because neither Spain nor any Central American entity had ever occupied Belizean territory. The United Provinces of Central America was a union of Central American countries that had been colonized by Spain. In 1840, Britain declared that "the law of England shall be the law of the Colony of British Honduras." However, not until 1862 did they officially declare Belize to be a British colony [2]. In 1859, Britain and Guatemala signed a treaty, which, from the British point of view, defined the current boundaries between Belize and Guatemala. From the Guatemalan point of view, it was a treaty of cession where Guatemala gave up right to the land. For it to take effect, Britain had to help build a cart road to improve communications between Guatemala and the Atlantic Coast. This road was never built and Guatemala claimed the treaty was broken. In the years that followed, Britain offered cash settlement and proposed alternatives such as a railway link, but no agreement was ever finalized [2,4].

In 1933, the two countries placed concrete monuments to mark the boundary line, as defined by the 1859 Treaty between British Honduras and the Republic of Guatemala. In 1940, Guatemala declared the 1859 treaty void. In 1945, the new Guatemalan constitution declared Belize to be part of Guatemalan territory and threatened to invade Belize. Similar threats occurred in 1972, 1975 and 1977, each time an increased British military presence prevented the invasions. By the 1950s however, Belize's population had increased to 60,000. This consisted of the indigenous Maya, the British, the Africans, and their descendants, successive waves of migration had added Indian, Garifuna, Mestizo, West Indian, and other residents—a new people now called Belizeans who wanted independence. The Independence movement grew rapidly and by 1961, following the U.N. Declaration on the Granting of Independence to Colonial Countries and Peoples [5], Britain agreed that Belize could proceed to independence whenever it so desired. The Guatemalan claim, however, prevented this from happening [2].

In 1962, Belizean representatives along with a British delegation initiated direct negotiations with Guatemala and in 1963, Britain agreed to a new self-government constitution for Belize. Subsequently, Guatemala broke off diplomatic relations with Britain until 1985. For reasons not clearly established, in 1973, the country's name was officially changed to Belize. The 1975 UN General Assembly resolution affirming Belize's right to independence with all its territory was rejected by Guatemala. Belize continued to seek support from other countries which it gained by 1980 when 139 countries voted in favor, with seven abstentions and none against. Guatemala refused to vote. Belize gained independence in 1981 [2,6,7].

That same year, Britain, Guatemala and Belize signed an agreement known as the "Heads of Agreement" in which neither terms for a final agreement nor for specific proposals were met; rather, the document set forth areas for discussion that would form the basis for a final agreement after negotiations. Guatemala then agreed to recognize an independent Belize within its existing borders. This document was interpreted by some Belizeans as having given unacceptable concessions to Guatemala. The result was wide-spread discontent that resulted in a state of emergency after riots erupted in Belize City and a government office was set on fire [8]. Most of the clauses were subject to widely different interpretation by both Belizeans and Guatemalans. Belizeans were not satisfied with the following rights to be given to Guatemala:

a.) The agreement would have granted Guatemala the cession of territorial seas thus giving it permanent and unimpeded access to the high seas together with rights over the adjacent sea bed. Under the United Nations Convention on the Law of the Sea [9], this would have allowed Guatemala to have rights to the use of the territorial waters, such as the right to deny and suspend passage of other coastal states' ships; it would have allowed Guatemala to establish its own laws and rules relating to transport, navigation, health, customs, and immigration matters, which might not be in conformity with Belize's, thus creating conflict. It would also have allowed

Guatemala to have access to any natural resources on the sea bed such as fish, the right to explore and exploit resources of the seabed and the subsoil which may create even more conflict with the Belizean populace who disagree that the resources should be shared. Currently, Guatemala has the rights of access to the high seas on the Caribbean Sea for shipping of, among other things, petrol, farm chemicals and cars, and for the passage of tourist ships. Its ships pass one to two miles from the reef [10]. The damage to the Belize Barrier Reef would be severe in case of collisions or spills by any of these boats.

b.) The agreement would have granted Guatemala use and enjoyment of the Ranguana and Sapodilla Cayes and rights in those areas of the sea adjacent to the cayes (Figure 1). Both Belize and Guatemala are developing nations; Belize in particular depends heavily on tourism. Thus, sharing the enjoyment of the offshore island resources with Guatemala benefits both countries. Belize benefits as Guatemalans pay user fees and stop at the Immigration Office at the Sapodilla Cayes to stamp their passports. Tourists enjoy having a wider range of travel destinations. Guatemalans benefit as this facilitates the entry of their tourists into Belize. Many tourists find it cheaper to visit Guatemala than Belize due to the currency exchange rates. Thus, they find it cheaper to go into Belize with a Guatemalan tour boat. However, more pressure on the cayes and their environment increases as more Guatemalan tourists are encouraged to visit the cayes [11].

c.) Guatemala would have been granted free port facilities in Belize City and Punta Gorda Town in southern Belize. This situation would facilitate trade and would benefit both countries. However, in cases of damage to the port facilities, the Government of Belize would need to pay for such damages if there is no contingency plan [11].

d.) The agreement would have facilitated an improved road from Belize City to the Guatemalan frontier and a road from Punta Gorda to the Guatemalan frontier; Guatemala would have freedom of transit on those roads. Though this was never carried out formally, a dirt road was built to link Punta Gorda Town and the Guatemalan frontier through the village of Jalacte in southern Belize. This village is mostly inhabited by indigenous Guatemalan immigrants. Recently, there have been plans to improve this road. The socioeconomic impacts of paving this road are both positive and negative. First, it would facilitate more legal trade of goods between the two countries, which would benefit both economically. An improved road would allow an officially established port of entry with an Immigration and Customs office, thus facilitating legal entry into both countries, unlike the current situation. It would increase cultural tourism and benefit the indigenous communities in nearby areas. Electricity would be provided to the local communities. The agreement would also encourage bi-national relations, and better access roads would preserve vehicles [12]. However, it would cause more Guatemalans to come into Belize increasing the crime rate. But even as it is, the border with Guatemala is porous and Guatemalans have entered and continue to enter from different areas into Belizean territory [12,13]. The construction of this road might cause deforestation to continue farther inland and might motivate more illegal trade. There would be increased traffic and an influx of migrants seeking job opportunities into Belize, thus creating more conflict than there is. It would displace people and encourage development [12-14]. However, this might be a problem as the indigenous communities have no ownership to the lands. There is the need to increase land tenure for these local communities. This can be done by having a local land management committee and subdividing the land for distribution. The indigenous Maya people who live in nearby communities are mostly immigrants who don't believe in land titles; they believe that the land is their mother. Having a land title represents having their mother in a piece of paper that can be sold and they ask, "How can we sell our mother?" There is a need for an environmental assessment before this road is reconstructed [12].

e.) Under the proposed agreement, Belize would facilitate the construction of oil pipelines between Guatemala City, Dangriga, and Punta Gorda. The construction of a pipeline would decrease the cost of transporting Belize's crude oil to be refined in Venezuela but it would also increase the potential of oil spills that would create tremendous damage to the environment of both countries. A contingency plan would be required [10-11].

f.) The agreement would have allowed for areas of the sea bed and the continental shelf to undergo joint exploration and exploitation of minerals and hydrocarbons. With all the conflicts with Guatemala over the decades, the Belizean public perceives any joint project like this with Guatemala as surrendering Belizean territory to Guatemala. Currently, oil has been found only on land areas in Belize. Recently, the government of Belize signed an agreement for joint oil exploration in the sea with the Taiwanese government. There is a section of the Belizean public however, who believe that regardless of the nation with which Belize chooses to explore for oil, once the agreements signed are open and transparent, it would be accepted by Belizeans [11]. Belize claims 200 nautical miles of Exclusive Economic Zone (EEZ) except in the area disputed with Guatemala. Under UNCLOS, countries that have continental shelves extending beyond the 200 nautical mile limit can claim up to 350 nautical miles as an Exclusive Economic Zone. Belize however, has no continental shelf and thus cannot claim more than 200 nautical miles of EEZ. If the sea area disputed with Guatemala proves to have hydrocarbon resources, it would be even more difficult to settle the dispute, since both nations would have stronger interests in the area. Currently, parts of the land area disputed are believed to have such hydrocarbon resources. These areas, however, lie inside protected areas in Belize.

Under this agreement, Belize would have also been entitled to any free port facilities in Guatemala, matching similar facilities provided to Guatemala in Belize. The parties would have signed a treaty of cooperation in matters of mutual security. There was also a provision that the rights or interests of Belize or of the Belizean people should not be prejudiced. The agreement also stated that Guatemala would re-establish normal relations with Great Britain and that it would support Belize's membership in the United Nations, the Organization of American States, Central American organizations, and other international organizations [2,9]. However, because of the widespread discontent of the Belizean community, the government of Belize opted not to sign but to consult with the public. This gradually led to the establishment of the Maritime Areas Act, discussed in the following section.

Implications for Conservation

The Territorial Sea Established

In 1987, Belize continued its negotiations with Guatemala while maintaining its position on the territorial integrity of its continental and island territories. It discussed the issues of maritime boundaries and economic cooperation proposals on land and sea. It was understood that the essence of the negotiated solution lay in Guatemala's accepting Belize's traditional borders and in Belize's agreeing to limit its territorial sea claims in the south [2]. As a British colony, Belize never claimed more than three nautical miles of territorial sea as per British policy [2,15]. Thus, three nautical miles of territorial sea is what Belize acquired after gaining independence in 1981. The 1982 United Nations Convention on the Law of the Sea (UNCLOS) allowed Belize to claim 12 miles of territorial sea. In the case where adjacent states were each unable to claim 12 miles because of the short distance between the two, each would be entitled to claim up to the median line [10,11]. Guatemala however, had claimed 12 nautical miles of territorial sea since 1939. In 1985, a new Guatemalan constitution removed the clause identifying Belize as part of Guatemala [2].

In 1990, Belize became a member of the Organization of the America States and in 1991, Belize's Independence was recognized by Guatemala and both countries finally established full diplomatic relations. That same year, the government of Belize introduced the Maritime Areas Bill to the National Assembly as an act to mark its territorial Sea, internal waters and Exclusive Economic Zone (EEZ). The Maritime Areas Act is an ACT that makes provision with respect to the Territorial Sea, Internal Waters and the Exclusive Economic Zone of Belize; and for matters connected therewith or incidental thereto. This act also allowed Guatemala access to the high seas through its own territorial waters. This was opposed by the general Belizean populace who claimed that Belizean fishermen were losing their fishing rights and demanded that the government of Belize not give any territory to Guatemala. The government amended the bill before passing it in the

House of Representatives. The amended bill declared a territorial sea of 12 miles along all the coast except for the area in the south from the Sarstoon River, Belize's southern boundary with Guatemala, to Ranguana Caye, where only a territorial sea of three miles is claimed. As per international law, it also claimed an EEZ of 200 nautical miles, with straight baselines drawn from joining points along its reefs, cayes and atolls [9]. UNCLOS allows Guatemala to claim a closing line across the Amatique Bay which makes it part of its baseline. However, it also limits Guatemala from extending its territorial sea beyond the median line between the baselines of Guatemala and Belize, unless Belize agrees to this. The Maritime Areas Act states that the area between the three-mile limit and the median line is merely reserved for the time being to negotiate a sea boundary with Guatemala, that it is part of Belize's Exclusive Economic Zone, and Guatemala has no rights to claim it [9]. In 1994, Guatemala's claim to Belize was restated and in 1999, it articulated its new position claiming more than half the territory [2]. According to the amended Maritime Areas Act, wherever the equidistance line between Belize and Guatemala is less than 200 nautical miles from the nearest point of the baseline of the territorial sea, the delimitation of the Exclusive Economic Zone shall be effected between Belize and Guatemala on the basis of international law in order to achieve an equitable settlement. The act also establishes that if any agreement were to be reached with the Republic of Guatemala under which: (a) Belize were to claim less than what it is otherwise entitled to claim under international law; or (b) the Exclusive Economic Zone of Belize were not to extend to any specified area of the sea, seabed, or subsoil that would be 200 nautical miles; or (c) if there were to be joint exploitation or participation within Belize's Exclusive Economic Zone, this would be subject to approval of the electors in a referendum.

The conflicts

Conflicts between Belizeans and Guatemalans exist on both the sea and land areas. They range from illegal fishing, illegal settlements, illegal farming, poaching of wildlife, illegal harvest of forest products, illegal settlements, robberies, ambush attacks on the Belizean military and murders on both sides of the border [16-18]. Incursions up to 45 kilometers inside Belizean territory from the borderline at the Chiquibul Forest Reserve on the western border have been observed; however, there have been several peripheral activities all along the border. Four protected areas that are dramatically being altered by Guatemalans include the Vaca Forest Reserve, the Chiquibul National Park, Caracol Archaeological Reserve, and the Columbia River Forest Reserve [13], but the activities also occur from the Temash River up into the Bladen Nature Reserve, Golden Stream Biological Corridor, the Deep River Forest Reserve, and the villages of Jalacte, Dolores, Poite, Machacakilha, and San Vicente. [10,12-14]. The Chiquibul forest seems to be the main gateway for Guatemalans entering Belizean territory, where the primary illegal activities include milpa farming and hunting by Guatemalans. It is reported that illegal activities are less frequent in the Sarstoon Temash National Park because all the mahogany has been harvested illegally over the years by the Guatemalans [12-14,16]. For milpa farming, large areas of the forests have been cleared. This causes destruction of entire ecosystem habitats of several species of plants and animals. In 2007, 1 336.6 hectares were reported to have been cleared illegally in the Chiquibul Forest Reserve, 3 126.2 hectares in the Caracol Archaeological Reserve, and 1005.6 hectares in the Colombia River Forest Reserve [13,19]. It is reported that satellite imagery in 1987 showed 113.3 hectares of disturbed forest in the Chiquibul Forest Reserve which was being utilized for agriculture by Guatemalans. By 1994, Landsat satellite imagery also showed that 692 hectares of virgin tropical forest had been destroyed, reportedly by Guatemalan communities living just adjacent to the border. Guatemalan families, fences, cattle, milpas, logging, and thatch houses have been observed inside the Caracol Archaeological Reserve and the Chiquibul National Park [13].

The conflicts occur on a daily basis. The damage done to Belize's forest and marine resources and human life are significant and need to end. Among the most significant conflicts are the following:

a.) Harvesting of forest products, particularly of the multi-million dollar business of harvesting the precious palm *Chamaedorea*, locally known as Xate, is seen as a major threat on Belizean territory. With yields plummeting elsewhere, up to 1,000 xaté collectors (xatéros) are reported to have been illegally crossing into Belize to exploit such pristine resources since the 1970s. Risking their lives in the jungles of Belize, and ignoring the dangers of getting lost or being arrested and jailed, they have reportedly ventured up to 60 kilometers inside Belizean territory since 2006. This has provoked diplomatic tension between Belize and Guatemala and has threatened what was the last wild regional stronghold of the xaté species popularly known as fishtail (*C. ernesti-augustii*) [13,20]. *Chamaedorea* is the largest palm genus in the Neotropics, comprising between 80 and 100 species. According to the World Conservation Union (IUCN), *Chamaedorea* is among the world's most endangered palms, with around 75 percent of the species threatened [20-21]. Of the 12 species found in Belize, three are considered under threat: *C. ernesti-augustii*, *C. oblongata*, and *C. elegans*. This palm species, widely grown in the tropics and subtropics, grows in the understory of the forest canopy in moist conditions. It is a preferred palm for landscaping and in floral arrangements for weddings and funerals due to its long shelf life. It is exported from Guatemala to Europe, North America and Asia. Xate harvesting has led to the destruction of large areas of Belize's pristine rainforests. The harvest of Xate fluctuates depending on the demand; in December, for example, the demand increases. In 2005, an economic assessment of Xate in the Chiquibul Forest Reserve estimated that in a period of five years, some 37.8 million leaves, with a value of Bz\$1 million [or Bz\$2.8 million, if highest recent prices are used] had been extracted from the Chiquibul Forest Reserve illegally. In 2007, 50 horses used for transporting Xate were captured, along with 25 Xateros; this may have caused either a noted decrease in their number or a probable increase in their methods of deception. In late 2007 and early 2008, ambush patrols noted that Xateros enter through one trail and exit through another as a method of deception. Their major trails are split into 3 or 4 fans at the intersection of trails which are often several hundred meters apart. In 2007, more than 200 huts were destroyed by patrols inside the Chiquibul Forest Reserve [13]. Several areas in Belizean territory (such as the Western side of the Colombia River Forest Reserve) are too risky to patrol because since 2008 Guatemalans there have been considered to be armed and dangerous. Rifles and guns have been confiscated from their camps [12-14,16-19]. They now reportedly travel at night, use child labor, travel in smaller numbers, and no longer build permanent camps [13]. In 2008, Guatemala passed a new regulation on Xate, which it's believed will have an impact on Belize in the future. The Belize Forest Department has also asked the Guatemalan government to cancel Xate concessions near Belizean territory to prevent conflict. Also, a bi-national work plan has been signed between the Belize Forest Department, Consejo Nacional de Areas Protegidas in Guatemala (CONAP), FCD, and la Mesa de Dialogo of Poptun in Guatemala for productive collaboration. One of the components of this plan is to provide alternative livelihoods for Xateros. Also, it has been proposed to conduct an international media awareness campaign for the Xate buyers about the damage and conflict the trade can create [13].

b.) Forest areas in Belize are also used by Guatemalans for the establishment of illegal settlements, most of which have been removed [13,22].

c.) Belize's forests are cleared for agricultural purposes through slash and burn, mainly seen from March to May during the dry season. These farmlands are clustered along the border where Guatemalan communities are found; four of these are the communities of Valentin Camp, Sapote, Cebada, and Rio Blanco [10,12-14]. In 1987, 113 hectares of forest reportedly were removed in the Chiquibul. In 2007, satellite imagery indicated that in the Chiquibul National Park alone, 3,126 hectares of tropical forest have disappeared. If the destruction in the four protected areas along the border were tallied, more than 5463 hectares might be found to have disappeared. That same

year, a community-based organization in charge of co-managing the Chiquibul Forest Reserve, Friends for Conservation and Development (FCD), through aerial surveys, estimated that more than 405 hectares of tropical forest had disappeared and ground reconnaissance discovered hundreds of cornfields in Belizean territory. About 109 hectares of these farmlands were destroyed, although Guatemalans were allowed to harvest some crops later. In 2008, aerial surveys sighted 22 fires, on Belizean territory which may have been farmed later that year [13]. The destruction of forests results in the destruction of wildlife and wildlife habitat as well;

d.) Evidence suggests that Guatemalans venture up to 10 kilometers inside Belizean territory to hunt both for subsistence and commercial purposes, and that game meat is taken to Guatemala to sell in commercial quantities. Some of the wildlife harvested includes birds such as the scarlet macaw, wild turkeys, chachalacas, quails, tinamous and pigeons, as well as jaguars, peccaries, and other game meat. Ranger patrols have not recorded a single sighting of the peccary since the inception of their management program in 2006; peccaries were seen in herds 15 years ago [13,21].

e.) Another problem is the survey lines done by Guatemalans two kilometers inside the border with Belize. These lines have subdivided Belizean territory into parcels for Guatemalans. A Guatemalan national, "owner" of these parcels, reportedly is willing to surrender them in exchange for cash [13]. Consequently, the government of Belize intends to establish observation posts in these areas to maintain a Belizean presence.

f.) The destruction of equipment and loss of property is another problem. For example, \$10,000 BZD in camera equipment used to monitor jaguars was recently reported destroyed. The Guatemalans also leave messages in Spanish to either threaten or state that they won't leave Belizean territory. Solar panels from a gold-mining station in the Chiquibul forest have been lost. Staff members at this gold-mining station in the jungle feel intimidated by the presence of Guatemalans, and to avoid confrontations they provide them with food and water [12-13]. There has also been destruction of landmarks established by the government of Belize to mark its boundaries.

g.) Another threat is risk to life, as the Guatemalans are usually armed and violent. All these problems occur in the southern part of the Peten (the area discussed above) because in the northern part where Guatemala borders Mexico, the drug cartels have taken over the jungles and the Guatemalans don't venture into this territory. There are records of up to 50,000 illegal Guatemalans a year in Belizean territory [13].

h.) Illegal logging for rosewood, mahogany, cedar and other hardwoods is another problem. The Forest Department in Punta Gorda Town reports that local Belizeans are found guilty more often than Guatemalans of illegally harvesting timber [23]. In 2008, a multi-agency patrol conducted at the Colombia River Forest Reserve documented about 30 illegal mahogany logging operations, totaling 4,125.5 ft³ (25,784.4 bd ft). If this had been harvested legally, it would have totalled \$103,137.60 (at the average market rate of \$4 per board foot) with \$5,115.62 being paid in royalties [13]. Organized logging carried out in the Colombia River Forest Reserve is extremely dangerous because the Guatemalans guard their mahogany and cedar camps with guns. They have built a road through what is called the main divide (rugged terrain in the Maya Mountains where the highest peaks in the entire Belizean territory can be found). They climb the Maya Mountains to transport the timber harvested across the border to Monte Los Olivos, El Carrizal, and Machaquila which are Guatemalan communities located near the border [13,23].

i.) Illegal fishing by Guatemalans is done both in the rivers in the jungles and sea of Belize. On the marine side, the small number of fishermen in Belize contrasts with the large number of Guatemalan and Honduran fishermen. Illegal fishing and dissension about fisheries regulation among the three countries are perceived as the reasons why fish stocks are declining in Belizean waters [13,24]. Fish exportation is a problem because Belize requires an export permit, but such

permits are not given to Guatemalans. Fish are exported to Guatemala illegally because there is a bigger market there because of the larger population [11]. The table below shows the number of arrests, by nationality, made in southern Belizean waters by the Belize Fisheries Department from 2004 to 2008.

Table 1. Number of arrests made in Southern Belizean waters, by nationality, from 2004-2008. Source: Belize Fisheries Department, Punta Gorda Town.

Nationality	2004	2005	2006	2007	2008	Total
Other	0	0	0	0	2	2
Belizean	8	23	19	11	37	98
Honduran	0	0	37	0	18	55
Guatemalan	9	22	4	25	11	71
Total						226

Among the offences committed were:

- Engaging in commercial fishing without a valid license
- Engaging in commercial fishing without a valid boat license
- Employing/allowing an individual to engage in commercial fishing without a valid fishing license
- Possession of crawfish with carapace less than 3 inches
- Use of gill net in a Marine Protected Area
- Use of gill net within 1/2 mile of any settlement
- Use of gill net with mesh size less than three inches
- Possession of crawfish/conch in the closed season
- Possession of undersized lobster
- Restricting passage of boats and fish
- Using a foreign fishing vessel for fishing or for other related activities while in the waters of Belize without a valid foreign fishing vessel license
- Not keeping fishing gear securely stored so as not to be readily available for use.
- Using a foreign fishing vessel in the waters of Belize without the vessel displaying any identification markings in accordance with the specifications set out in the seventh schedule [11].

j.) Looting of archaeological sites by Guatemalans is the last but not the least of problems that arise.

Barriers to enforcement

The National Park Systems Act and the Wildlife Protection Act of Belize impose penalties on persons found guilty of offenses committed in the destruction of forest, hunting of wildlife, extraction of timber and non-timber forest products, creation of settlements, and cattle ranching, among others. These laws are perceived as weak and outdated since for the most part the penalties are only a \$500 fine, six months' imprisonment or both [13,14]. This goes for both illegal fishing and illegal harvesting of forest products. Other laws that may also apply to Guatemalans on Belizean territory include the illegal use of weapons, illegal entry into Belizean territory, illegal excavation of archaeological remains and tombs, trespass into private property, illegal surveying of lands, theft and threats to life [13].

The remoteness and the rugged terrain of the area are barriers to enforcement; it takes at least seven days to get to the sites where illegal activities are happening. A lack of manpower is another problem along with a lack of finances to carry out patrols. Patrols are done every one or two months. When British soldiers patrolled Belize's borders, they changed personnel every seven days, but they left in 1981; since then, the number of incidents has increased [10,12,14]. Patrols are done along with the police and the Belize Defense Force (BDF). It is believed possible to stop these illegal activities, since it takes three to four weeks to set up camps to log. However, Belizean soldiers are afraid to arrest the Guatemalans doing illegal activities because they are afraid this might lead to bigger problems, even war, and because rich and powerful Guatemalans are the investors in these illegal activities. But it's also believed that a military presence might help stop the activities. The Forest Department in Punta Gorda Town in southern Belize has limited resources and capacity to manage a huge area and has only three or four office personnel. On the marine side, the problems are similar. When arrests are made, it's perceived this costs the government of Belize more to jail and feed them than the offense justifies. When caught doing illegal activities, Guatemalans are fined or go to jail. Belizeans are set free and given time to pay fines later [10-14].

Recent Negotiations

Despite the fact that Guatemala has recognized Belize as an independent nation, it has not formally abandoned its claim. At present, there is the need to define the maritime boundary between the two countries. The recent Guatemalan Constitution removed the clause claiming Belize territory and replaced it with a clause empowering the president to seek a solution to the dispute and requiring the proposed solution to be put to the people in a referendum [25].

In 2000, the OAS facilitated an agreement for Belize and Guatemala "to adopt a comprehensive set of confidence-building measures to avoid incidents between the two countries." The OAS mediated agreement was a "pactum de negotiando" where the obligation was to negotiate in good faith with a view to concluding an agreement, but with no obligation to agree to unfavorable conditions [26]. In 2002, the local news focused on the Belize-Guatemalan Differendum proposal released by the OAS. On the marine side, the proposal held that the Territorial Sea Tripoint between Belize, Guatemala, and Honduras in the Gulf of Honduras—extending northeast to the 12-nautical-mile intersection of the territorial sea limits of Belize and Honduras—should provide Guatemala an access corridor of unrestricted navigational rights extending for two miles on either side of the Belize-Honduras territorial sea equidistance line boundary. Within six months of the Treaties of Settlement coming into force, Belize, Guatemala, and Honduras would meet any requirements pursuant to the provisions of Article 16 of the United Nations Convention on the Law of the Sea [27].

With respect to the EEZs and continental shelves, the proposal provided for a reasonable Guatemalan maritime area, which was to be agreed upon by the parties on the basis of international law. It granted an EEZ and continental shelf for Guatemala in the Gulf of Honduras (the Guatemala Maritime Area), an area of 2,000 square nautical miles as set forth in the Indicative Map (Figs. 2 and 3). It also contained provisions for the establishment of a Tripartite Regional Fisheries Management Commission for the Gulf of Honduras under the rotating chairmanship of Belize, Guatemala, and Honduras. The Tripartite Commission would have vested in it authority for the management, long-term conservation, and sustainable use of straddling fish stocks and highly migratory fish stocks located in the EEZ of the three countries. The proposal also allowed for the exploration and exploitation of natural resources on the seabed at set locations for each of the three countries. It also contained provisions for the establishment of a tri-national ecological park [28].

But no agreement was finalized and in 2008, the OAS advised Belize and Guatemala to take the matter to the International Court of Justice (ICJ), the reason being that the court is the most

prestigious in the world and the one that gives more guarantees to more countries. It was hoped that a ruling by the ICJ would settle this issue forever, and that Belize and Guatemala could enjoy good friendship within secure and safe borders [29]. Despite this and other previous efforts, the territorial, aerial, and maritime disputes between Belize and Guatemala have given rise to a series of confrontations between the military forces, communities, and fishermen in both countries [24].

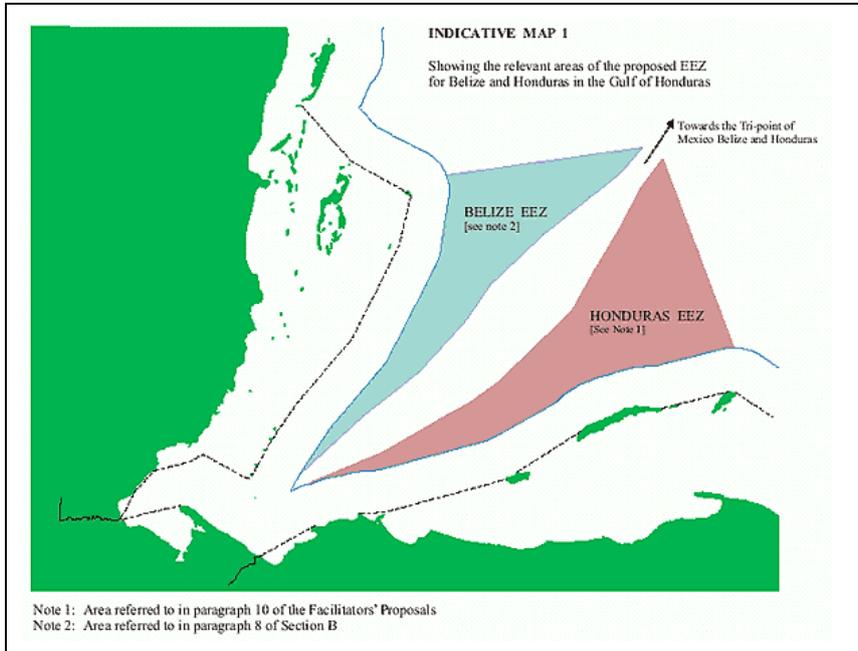


Fig. 2. Proposed EEZ for Belize and Honduras.

Source: http://www.belize-guatemala.gov.bz/press_releases/proposals/maps.html

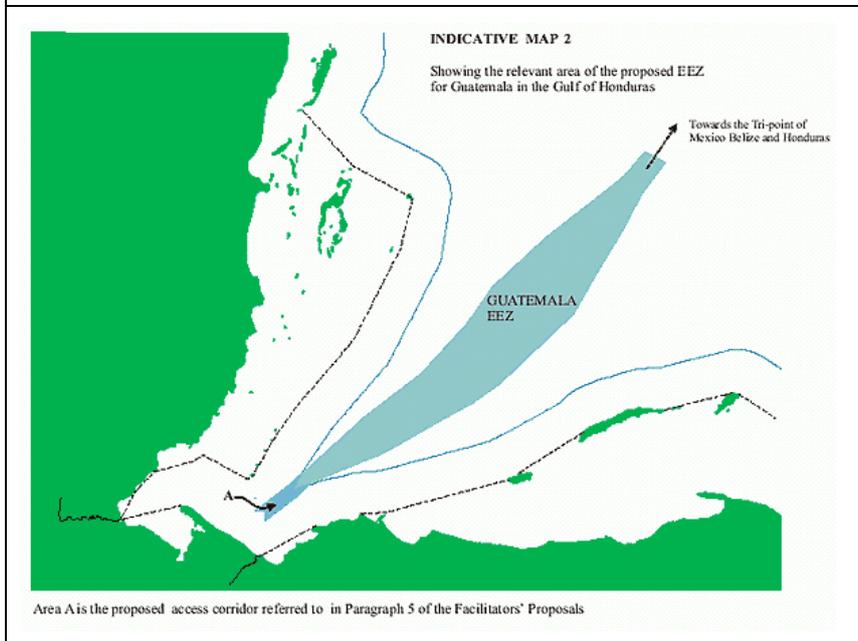


Fig. 3. Proposed EEZ for Guatemala.

Source: http://www.belize-guatemala.gov.bz/press_releases/proposals/maps.html

For Belize and Guatemala to take the matter to the ICJ, each country would need to call for a referendum on the same day to decide whether or not to do so. Consequently, in December 2008, Belize and Guatemala signed what they call a "special agreement" at the OAS in Washington. This agreement is the diplomatic document that dictates the terms and the text of the referendum. It gives jurisdiction to the International Court of Justice to hear the dispute and it dictates in very precise language—in both Spanish and English—that the referendum be held on the same day in both Belize and Guatemala. The Registrar General of the ICJ will be notified if both countries vote for the referendum 30 days later. If the appeal to the ICJ is approved, Guatemala will then have the right to present its case in writing, and Belize will be given an equal amount of time to rebut. Guatemala would then be given time to rebut that rebuttal. Finally, the court would deliberate. This would take about five or six years. However, if any one country fails to agree to a referendum, it means that the matter cannot be taken to the ICJ and Belize can only continue to negotiate with Guatemala to ensure a secure border [29-31].

Conclusion

The confidence building measures facilitated by the OAS and adopted by the two countries brought a good level of friendship between participants in the two countries. However, the reality of those living at the borders is different. Confrontations of various sorts have always existed. Furthermore, the proposed measures have focused too little or not at all on southern Belize, especially in regard to fishermen and other users of the area in dispute.

Under the International Convention on the Law of the Sea, Belize is willing to grant Guatemala permanent access to the Caribbean Sea through its own territorial sea and to consider joint exploitation of its EEZ resources in an effort to settle the dispute. It is also willing to submit to procedures established by the Convention to delimit the maritime boundaries with Guatemala and Honduras if agreements cannot otherwise be reached [2]. On the Belize side, there is a sense of confidence that the ICJ will rule for Belize for the following reasons:

- Belize is an independent nation, recognized by Guatemala;
- British settlers had extended their settlement before 1821 south of the Sibun River towards the Sarstoon River. This affected Spain, not Guatemala which was not created until 1839;
- Britain and Guatemala agreed on a Belize's boundary demarcation projects in 1933;
- Guatemala has never occupied Belizean territory;
- It is probably too late for Guatemala with regards to the 1859 treaty although as late as March 1938, it insisted on British compliance with the treaty. Two years later (in 1940) and 80 years after the treaty, it declared the boundary treaty void;
- Guatemala's claim to Belize has been characterized by inconsistent positions. Until recently, the claim was based primarily on the alleged breach by Britain of the 1859 Treaty, as discussed above. In October 1999, the claim was based on the 18th century treaties between Britain and Spain covering the area between the Hondo and the Sibun Rivers. Guatemala claimed that the area between the Sibun River and the Sarstoon River was "illegally" occupied by Britain, and argued that the area south of the Sibun River up to the Sarstoon River must be returned to Guatemala together with all the cayes which were not even mentioned in those treaties. The area thus claimed by Guatemala amounts to more than 12,000 square kilometers, which is more than half of Belize's territory [2].

It is felt by some Belizeans that there is a strong need to take the Guatemalan dispute to the International Court of Justice, so that Belize can make its own decisions and perhaps stop illegal activities. Many Guatemalan indigenous people migrated to Belize because of the hardships in Guatemala, including lack of opportunities in Guatemala. Thus, recent projects between Belizean conservation organizations and Guatemala are focusing on alternative livelihoods for

Guatemalans. Others feel that there is no need to prove in international court what already belongs to Belize. Some Belizeans also feel there is no need to go to the ICJ because the money that would be spent on going to court can be invested on technology that Belize desperately needs. Along these lines, there is the feeling that Belize only needs to let the BDF patrol frequently along the border to stop these activities. The Belize Forest Department is currently negotiating with the Ministry of National Security to put an observation post at the Colombia River Forest Reserve. There is a new observation post at the village of Santa Rosa on Belizean territory. There are plans to have more observation posts in order to strengthen the Belizean presence. The co-managers of the forest reserves are trained as special constables so they have the power to arrest. Intensive patrols in the jungle are carried out with other security forces to understand the problems on the ground. Offenders are arrested and taken to the San Ignacio Police Station. There are current ongoing discussions with Guatemalans to sensitize that country about the issues. There is an ongoing bi-national effort, including binational patrols, for collaboration in protecting the transboundary resources. It is felt that all this works at the technical level, but that more political will is required.

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