



***YES OR NO TO THE ICJ?***

***THE ROAD TO REFERENDUM 2019***

**21<sup>st</sup> Annual Meeting of UK-Belize Association**

**UCL-IA, London**

**6 October 2018**



# REFERENDUM 10 APRIL 2019

- Belize faces its most critical decision since independence: **whether to submit the Guatemalan claim to Belize to the ICJ for final resolution.**
- Guatemala held its referendum on the same question on 15 April 2018 and the majority voted **yes (95.8% 'yes' of a 26.6% turnout)**
- In Belize, the count down is on and the national debate is heating up

# THE QUESTION

**“Do you agree that any legal claim of Guatemala against Belize relating to land and insular territories and to any maritime areas pertaining to these territories should be submitted to the International Court of Justice for final settlement and that it determine finally the boundaries of the respective territories and areas of the Parties?”**

# HOW DID WE GET HERE?

Before and after independence, there have been many attempts to get Guatemala to drop its claim through mediation, negotiations and facilitation.

All attempts have ended in failure due to Guatemala's eventual insistence on getting territory or rights Belizeans could never agree to before or after independence

The last two failed attempts (2000-2002) and (2005-2007) at negotiated settlement were conducted with the support of the OAS

# HOW DID WE GET HERE?

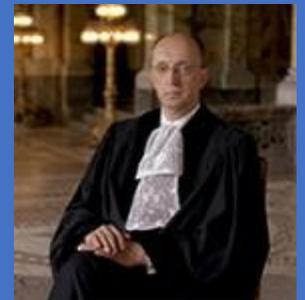
- The 2005-2007 attempt was conducted with agreement that, if it failed, the OAS could recommend to refer the claim to the ICJ
- The SG of the OAS did so in November 2007 and both Belize and Guatemala accepted the recommendation
- In December 2008 the two countries signed the **Special Agreement** that lays out the question to be asked of the Court
- **SA** states need for simultaneous referenda, the process the case would take, and that the Court's ruling is final and binding

# REFERENDA DELAYED

- Only a 'Yes' vote in referenda in both countries can send the case to the ICJ
- Prior to 2018, Guatemala had backed off having its referendum twice
- It took 10 years for the first referendum after a new agreement (2015) that referenda need not be on same day
- With Guatemala's 'Yes', **the ball is in now squarely in Belize's court.**

# THE QUESTION TO THE ICJ

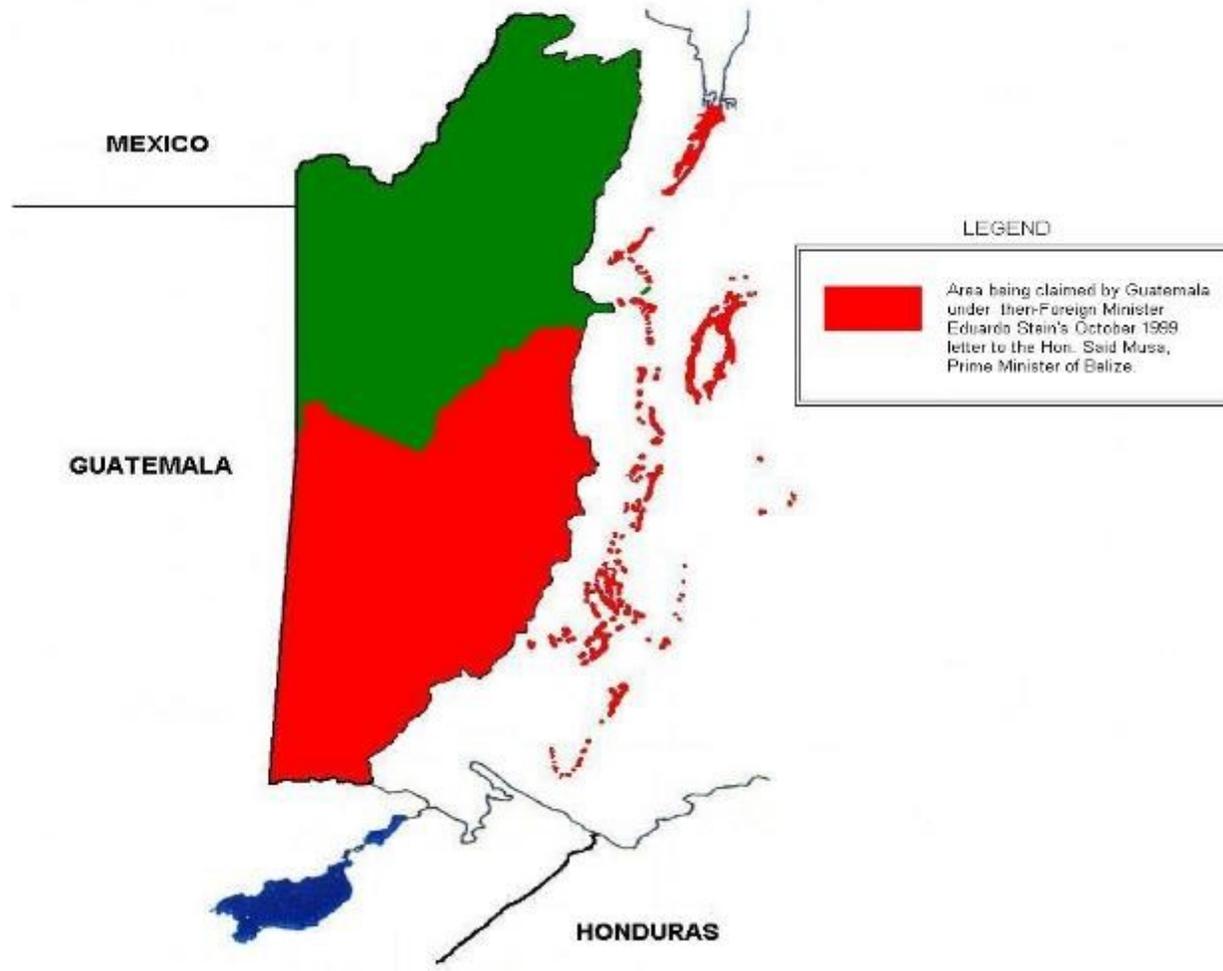
“The Parties request the Court to determine in accordance with applicable **rules of international law** as specified in Article 38(1) of the Statute of the Court **any and all legal claims** of Guatemala against Belize to land and inland territories and to any maritime areas pertaining to those territories, to declare the rights therein of both Parties, and **to determine the boundaries** between the Parties’ respective territories and areas.”



# GUATEMALA'S CLAIM

- When it became independent in 1821, it succeeded to the sovereignty Spain had over Belize
- The Anglo-Guatemalan Convention of 1859 was a treaty of cession of Belize by Guatemala to the UK
- The British violated this Convention by non-performance on a provision to contribute to building a cart road (Article VII)
- Given that it was a treaty of cession, Belize reverted to Guatemala
- Because the 1859 Convention does not exist in Guatemalan law, there are no borders and Guatemala must recover Belize

## AREA CLAIMED BY GUATEMALA



# THE BELIZE POSITION

- Britain acquired title the territory now Belize by occupation prior to 1821. Belize got that title in 1981. Guatemala never exercised control.
- The boundaries between Belize and Guatemala were established by treaty in 1859 by the Anglo-Guatemala Convention and reaffirmed by the 1931 Exchange of Notes
- The boundaries were marked by bi-national boundary commissions in 1861 and in 1929
- International law provides that a boundary once established has a legal life of its own independent of the treaty

## THE CONVENTION BETWEEN HER BRITANNIC MAJESTY AND THE REPUBLIC OF GUATEMALA RELATIVE TO THE BOUNDARIES OF BRITISH HONDURAS

Article 1. It is agreed between Her Britannic Majesty and the Republic of Guatemala, that the boundary between the Republic and the British Settlement and its Possessions in the Bay of Honduras, as they existed previous to and on the 1st of January, 1850, and have continued to exist up to the present time, was, and is as follows:

Beginning at the mouth of the River Sarstoon in the Bay of Honduras and proceeding up the mid-channel thereof to Gracias a Dios Falls; then turning to the right and continuing by a line drawn direct from Gracias a Dios Falls to Garbutt's Falls on the River Belize, and from Garbutt's Falls due north until it strikes the Mexican Frontier.

“It is agreed and declared by the High Contracting Parties that all the territory to the north and east of the line of boundary above described, belongs to her Britannic Majesty; and that all the territory to the south and west of the same belongs to the Republic of Guatemala”.

Aguas Turbias

Garbutt's Falls

Gracias A Dios Falls



## THE CONVENTION BETWEEN HER BRITANNIC MAJESTY AND THE REPUBLIC OF GUATEMALA RELATIVE TO THE BOUNDARIES OF BRITISH HONDURAS-1859

Article VII. With the object of practically carrying out the views set forth in the preamble of the present Convention for improving and perpetuating the friendly relations which at present so happily exist between the two High Contracting Parties, they mutually agree conjointly to use their best efforts by taking adequate means for establishing the easiest communications (either by means of a cart-road, or employing the rivers, or both united, according to the opinion of the surveying engineer), between the fittest place on the Atlantic coast near the settlement of Belize and the capital of Guatemala; whereby the commerce of England, on the one hand, and the material prosperity of the Republic of Guatemala on the other, cannot fail to be sensibly increased, at the same time that the limits of the two countries being clearly now defined, all further encroachments of either party on the territory of the other will be effectually checked and prevented in the future.

# 1931 EXCHANGE OF NOTES

26 August 1931

“I have the honour to acknowledge receipt of your note of the 25th instant.

“The Government of Guatemala agree to accept the concrete monuments erected at Garbutt’s Falls and the Rapids of Gracias á Dios which were set up by the commissioners of both Governments, Engineers Fernando Cruz and Frederick W. Brunton, on the 8 and the 26 May 1929, on the frontier between Guatemala and British Honduras according to the report drawn up at the Sarstoon River Bar by both delegates on the 29th day of the same month. A copy of the report duly certified is enclosed herewith.

“These monuments, thus determined, form part of the boundary line between British Honduras and the Republic of Guatemala.

“I avail, etc.

A. Skinner Klée”

# THE BELIZE POSITION

- The right of Belize to its territory is also confirmed by the UN principle of self-determination and entitlement to territorial integrity as evidenced by the attainment of Independence in 1981
- Guatemala must respect the boundaries already established
- Belize can never agree to give any territory to Guatemala
- Belize has good title to all its land, insular territories and maritime areas that Britain or Belize have occupied some 200 years



# WHAT THE 'YES' PROPONENTS SAY

- Belize's legal case is so strong it is inconceivable that Belize can lose any territory on a case decided by the ICJ on legal merits.
- With negotiations having failed, the ICJ is the best option for Belize to rid itself of the Guatemalan claim. The moment must be seized!
- Doing nothing is not an option and other alternatives are not realistic.
- The ICJ ruling would be binding on Guatemala and lead to clear demarcation of the boundary.
- An ICJ ruling would reduce the possibility of clashes and violence incidents between Guatemalans and Belizeans.







# WHAT THE 'YES' PROPONENTS SAY

- The outstanding issue of Belize's maritime boundary would be resolved in accordance with the United Nations Convention on the Law of the Sea
- Belize will be able to better move on with its national development without the distraction of this archaic blight on its existence
- The UN and the international community will be able to say 'we agree with Belize that this these are its borders with Guatemala'
- Belize will be better be able to deal with the on going reality of border insecurity, illegal migration, settlements, logging etc

# ILLEGAL LOGGING

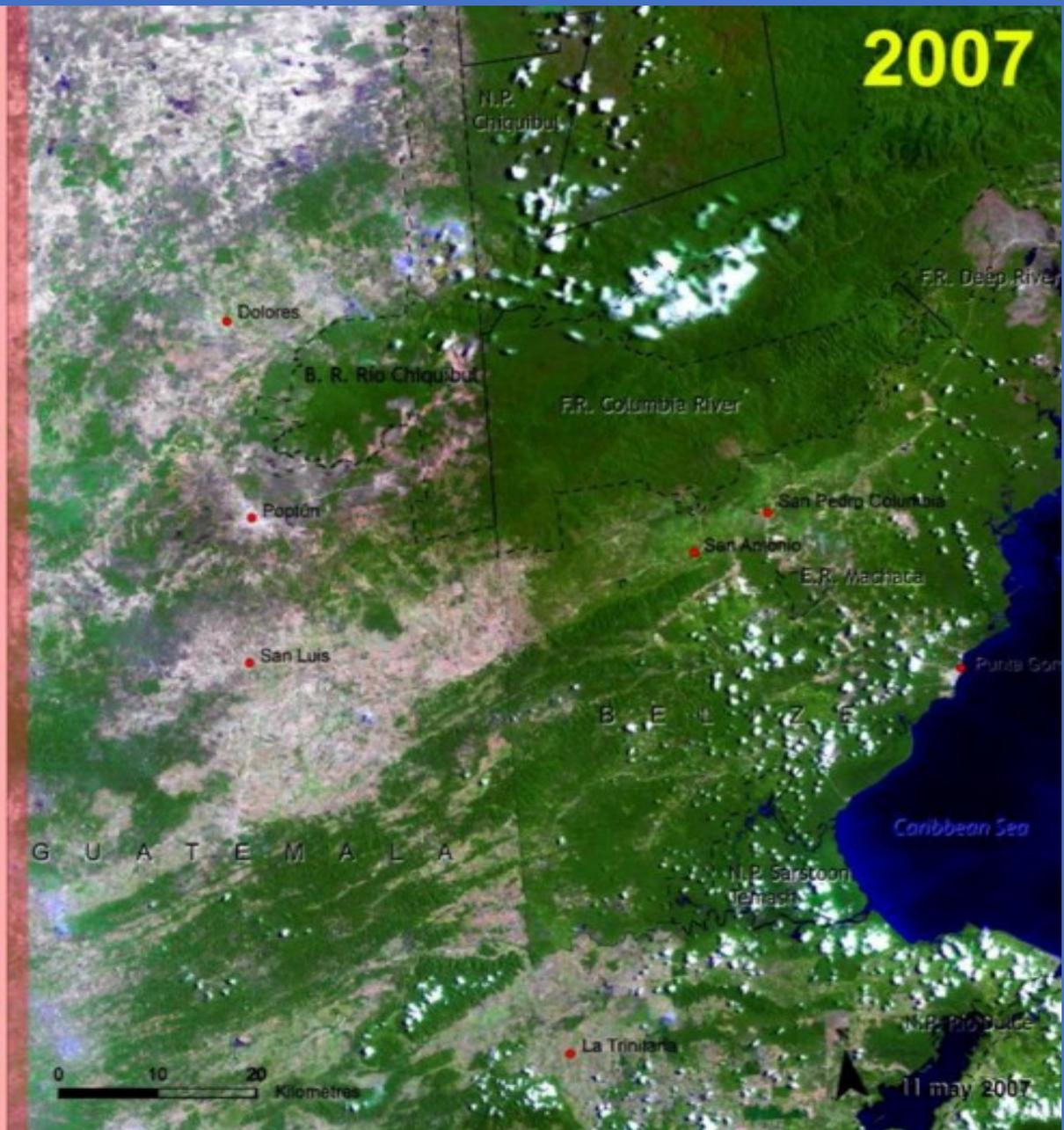
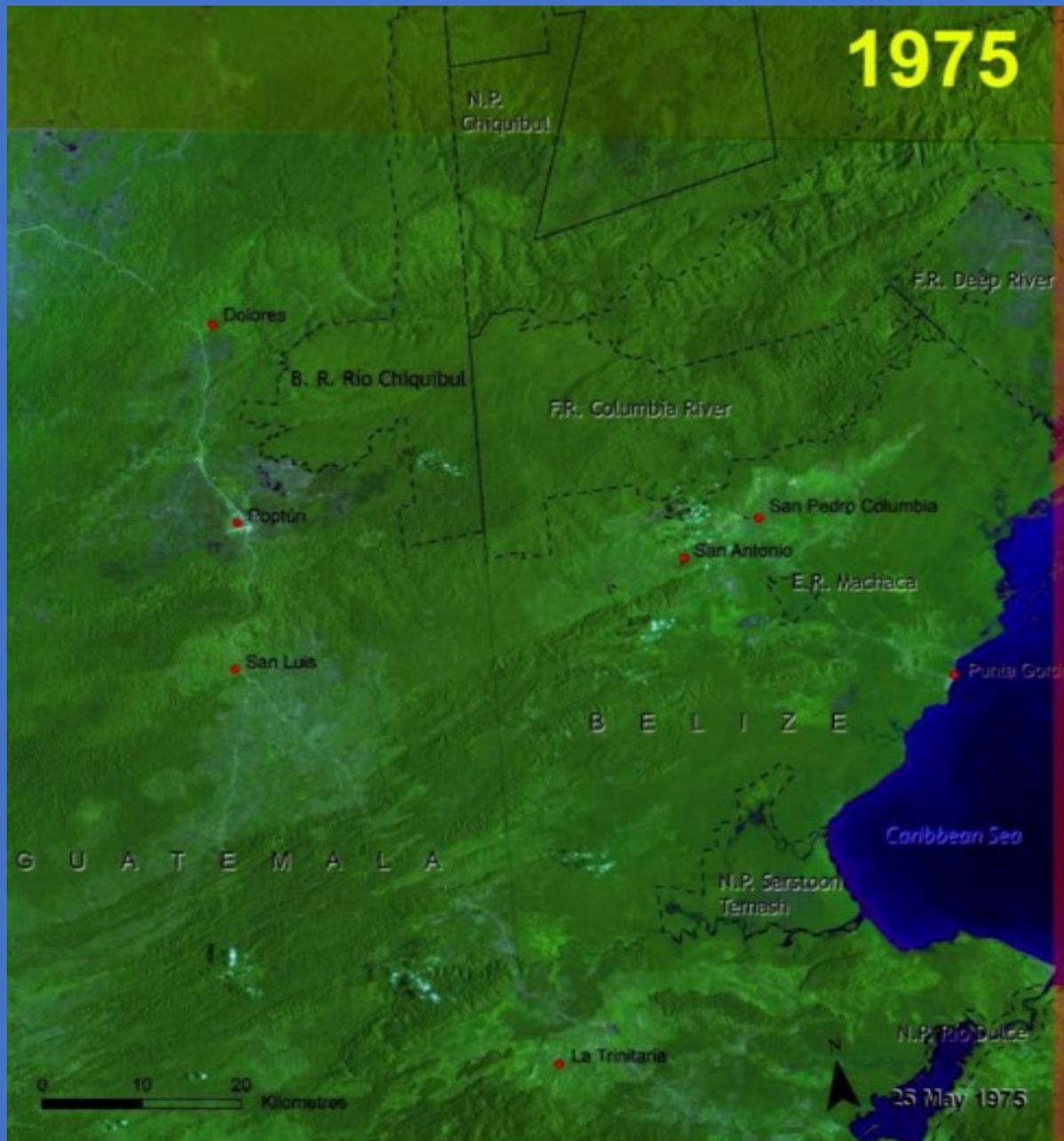


FILE PHOTO  
Courtesy FGD

Taking stock of illegal logging in Chiquibul

# XATEROS





# ILLEGAL HUNTING



# ILLEGAL HUNTING



# WHAT THE 'NO' PROPONENTS SAY

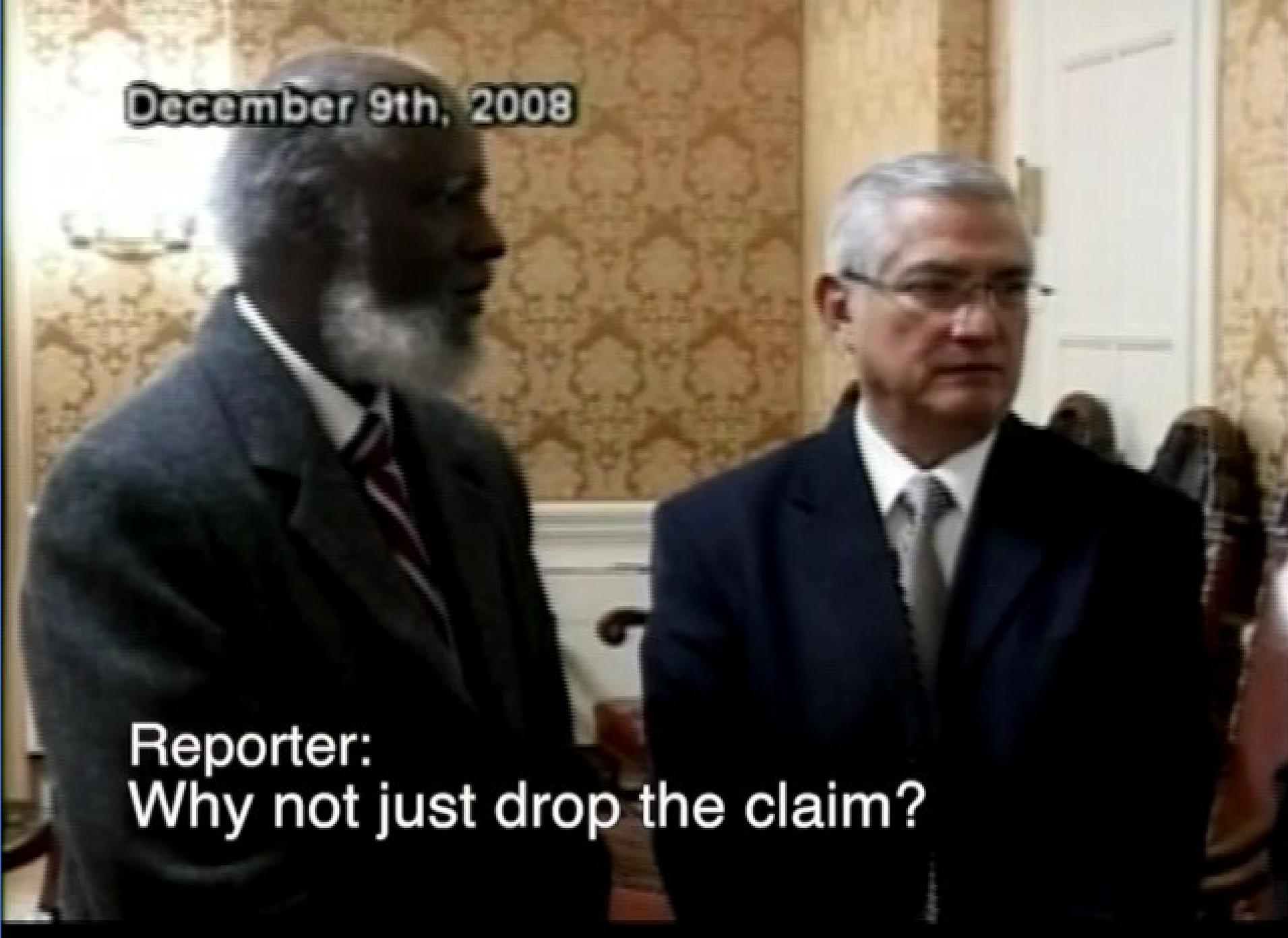
- The litigation risk of losing part of what Belize already has is not worth taking.
- Belize may have to adjust its borders or at least lose maritime areas it has rights to
- There is no guarantee how the ICJ will rule. Judges cannot be trusted
- Even if the ICJ rules all for Belize, Guatemala can still ignore the ruling

# WHAT THE 'NO' PROPONENTS SAY

- Guatemala has nothing to lose, Belize does
- Going to the ICJ is an expensive drawn out process Belize cannot afford
- 'We don't trust going to the ICJ under *this* government'
- Guatemala has a hidden trump card. Why would it go to Court if it has nothing to win?

**December 9th, 2008**

**Reporter:  
Why not just drop the claim?**



# THE CAMPAIGN SO FAR

- Re-registration exercise just concluded
- National Information Campaign is underway with stated objective of increasing awareness: *“ICJ-Be Informed”*
- Government of ruling UDP: Prime Minister, Foreign Minister and several other ministers have stated they support ‘Yes’.
- But PM declared it will be a conscience vote for his Cabinet and MPs. The UDP itself does not yet have a position

# THE CAMPAIGN SO FAR

- Leader of the Opposition says he supports **'Yes'** but some PUP MPs have said **'No'**. The PUP itself does not yet have a position
- Three small parties have said **'No'** but no real cohesive **'No'** campaign
- There is no organized **'Yes'** campaign...as yet
- Belize's first legally required national referendum in its political history. Uncharted waters!
- Much more education is needed
- Too close to call?



# ICJ



# be informed

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MFA Referendum Belize

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## **THE CONVENTION BETWEEN HER BRITANNIC MAJESTY AND THE REPUBLIC OF GUATEMALA RELATIVE TO THE BOUNDARIES OF BRITISH HONDURAS**

**Article 6. It is further agreed that the channels in the waterline of boundary described in Article I of the present Convention shall be equally free and open to the vessels and boats of both Parties; and that any islands which may be found therein shall belong to that part on whose side of the main navigable channel they are situated.**

# SARSTOON ISLAND

