

NICARAGUA

CERD A/36/18 (1981)

123. The initial report of Nicaragua (CERD/C/45/Add.3) was considered by the Committee together with the introductory statement made by the representative of the reporting State, which supplemented the information given in the report.

124. The representative pointed out that international conventions became part of national legislation of Nicaragua as soon as they had been ratified and the relevant decrees had been published in the Official Journal, and that his country maintained no relations with racist regimes. He referred to various provisions of Nicaragua's Penal Code, providing serious penalties for acts of discrimination. Nicaragua also had laws protecting migrant workers, preventing discrimination against aliens and guaranteeing every person access to courts free of charge. In its reports, the Government of Nicaragua had reproduced the basic domestic laws concerning prevention of racial discrimination and the promotion of equality and rights of all Nicaraguans, including national minorities. Lastly, the representative stated that his Government was in the process of elaborating legal provisions required by the Convention, and assured the Committee that there was in practice no discrimination of any kind in Nicaragua at the present time and, if such cases arose, the Government would be dealing with them on the basis either of specific legal provisions, or of general provisions, of domestic law.

125. Members of the Committee noted the seriousness of the approach of Nicaraguan Government to the need for the establishment of a dialogue with the Committee. Despite the complicated domestic situation, the report was considered to be informative. It was stressed however that Nicaragua had not yet implemented all the provisions of the Convention, and the hope was expressed that the results of relevant efforts would be seen in the next report. In particular, questions were asked on the progress made in the preparation of a preliminary draft political constitution and a draft electoral law, as well as, in particular, acts and regulations to implement the principles set forth in the basic law. Attention was drawn to article 22 of the Fundamental Statute which outlined a legislative programme, and it was asked whether there were any drafts of the laws referred to. It was pointed out that article 49 of the Fundamental Statute, which dealt with emergency situations, did not contain the proviso set out in article 4 of the International Covenant on Civil and Political Rights that emergency measures must not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

126. It was pointed out that steps should be taken to prohibit apartheid by law in accordance with article 3 of the Convention.

127. Attention was drawn to the requirements of article 4 of the Convention. Noting that not all the provisions of article 4 were covered in domestic laws, the Committee expressed the hope that specific action would be taken to remedy the situation when further legislation was enacted.

128. In connection with article 5 of the Convention, while it was noted that Nicaragua was doing its utmost to comply with the Convention pending the promulgation of its new Constitution, additional information concerning the implementation of that article was requested in the light of the new political order which the Government was going to introduce. In particular, information was requested on the holding of national elections and on the status of various political parties and groups. A question was asked as to how it was possible to exercise the right to organize or to form political parties, provided for in article 25 (a) of the Statute on the Rights and Guarantees of Nicaraguans, when the composition of the Government Junta and the Council of State was already laid down in a Statute. An explanation was requested as to why Misurasata (Association of Indians) had only one member in the Council of State out of a total of 47, although the Indians represented 5 per cent of the population. While welcoming the elimination of discrimination in trade union matters, members requested clarification on the position of the trade unions (especially those of media personnel), whether the media union would follow official guidance or act independently and if there existed one single comprehensive trade union in the country while, as it is known, the Government organized Sandinista trade unions. A hope was expressed that the law on trade unions would meet the requirements of the relevant ILO Convention. Appreciating the efforts made by Nicaragua to improve the lot of minority ethnic groups, additional information was asked for in the next report on practical results in this field especially concerning the activity programme and resources of the Nicaraguan Institute for the Atlantic Coast. It was also asked how the programme of Literacy Year had been carried out on the Atlantic Coast where the majority of Indians lived, in particular whether the authorities had tried to impose the Spanish language upon the Indians or whether they had found a way of introducing literacy to them in their own language.

129. With reference to articles 5(b) and 6 of the Convention, it was pointed out that certain steps were to be taken to further implement these articles. Concern was expressed about the press report on the arrest of certain Steadman Fagoth, the Misurasata representative in the Council of State. The representative of Nicaragua was requested to inform the Committee whether this had been done in accordance with article 8 of the Statute on Rights and Guarantees. An inquiry was made concerning article 8, of the State as to what authorities other than judges were empowered to issue an arrest warrant. Clarification was sought on the details of legal procedure, the Penal Code and detention before trial. Information was also requested on any review that might be undertaken of the existing Penal Code to reflect the provisions of the Convention.

130. The importance was stressed of including in the next report information on activities undertaken to implement article 7 of the Convention.

131. Replying to the questions of the Committee, the representative of Nicaragua pointed out that because of the difficult transitional period which the country was still in, priority had been given to eliminating the evils inherited from the Somoza dictatorship and to drawing up of a series of legal provisions in line with the wishes of the people. The year 1985 had been established as the deadline for governmental elections and the establishment of a parliament or congress which would replace the present Council of State, exercising executive power.

132. As far as the trade unions were concerned, the representative stated that it was intended to establish press associations and a trade union federation, but none of those bodies would be required to follow predetermined rules.

133. Referring to the ethnic groups, the representative stated that, in order to implement the fundamental statute various matters were being regulated by individual acts, such as those dealing with minorities, education in local languages, etc. A literacy campaign had been launched on the Atlantic Coast in order to maintain the ethnic culture while integrating minorities into the life of the whole country. Referring to the arrest of the representative of an ethnic minority in the Atlantic Region, the representative of Nicaragua informed the Committee that the arrested person, as it had become known from Somoza archives, had been a supporter of the dictatorship.

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455. The second and third periodic reports of Nicaragua submitted in one document (CERD/C/103/Add.1 and Corr.1) were considered by the Committee together with the introductory statement of the representative of the reporting State, who referred in general, to the demographic composition of the country and to the policy of his Government directed to the integration of all groups of the population into the country's development process. He also stated that Nicaragua had been living in a state of war since the promulgation of the Emergency Law of 15 March 1982, and that because of the country's popular and democratic political ideas, efforts had been made in the legal and juridical spheres to eliminate all forms of racism and discrimination.

456. Members of the Committee commended the Government of Nicaragua for its report, which was prepared in accordance with the guidelines set by the Committee. They noted with appreciation the frankness of the report which drew attention to major problems facing the Nicaraguan Government and to steps which had been taken with respect to all strata of society. Some members pointed out also that Nicaragua had made an earnest attempt to share its experience with regard to the implementation of the Convention, despite the emergency situation which existed in the country, and that account must be taken of the fact that Nicaragua was the victim of external interference in violation of the United Nations Charter. Furthermore, it was noted that the four years which had passed since the Nicaraguan revolution was too short a time in which to remove the social injustice imposed by the Somoza régime that had been in power for over 50 years.

457. Much of the discussion revolved around the Government's policy and practical measures relevant to the implementation of article 1, paragraph 4, article 2, paragraph 2, and article 5 of the Convention dealing with the actual situation and rights of the various ethnic groups in the country. The Committee welcomed the progress made by Nicaragua in preparing the preliminary draft constitution and electoral law, for its efforts to introduce land reform and for its success in the fields of education and literacy, which had won the recognition of UNESCO.

458. Turning to the conditions of the indigenous communities in Nicaragua, members of the Committee wished to know what the current status of the Miskito community on the Pacific and Atlantic Coasts was; why it had been moved from its settlement on the banks of the River Coco; whether the relocated community was entitled to acquire the land under the new scheme in question and, if so, whether it was receiving its fair share of the land; whether the redistribution of land was under the jurisdiction of the Nicaraguan Institute for the Atlantic Coast or a higher authority; whether land was being distributed solely to Indians or to all other ethnic groups as well; whether any grievances had been lodged regarding the redistribution programme by individuals or by the Miskito community as a whole and whether Miskitos were represented on the monitoring body and in the Institute itself. Further details were asked for on the general policy of the Government concerning integration, and on what measures were being taken to preserve and protect indigenous communities and to guarantee their autonomous existence so that they did not lose their distinct culture, languages and traditions. Some members also wished to know whether any applications for amparo had been made by the Atlantic Coast Indians and, if so, what had been the outcome. Furthermore, it was asked whether other measures, such as mining and industrial projects were envisaged in order to enhance the economic status of the indigenous population and what was being

done in practice to ensure that the indigenous population derived benefits from the exploitation of the natural resources in the areas where they lived. The hope was expressed that the next periodic report of Nicaragua would provide additional information regarding the work of the Special Commission of the Council of State and a breakdown of demographic data, including information about all the Indian groups of the country.

459. With respect to article 4 of the Convention, the Committee remarked that the crime of genocide was defined in positive law, which went a long way towards preventing maltreatment and persecution of indigenous peoples. However, some members expressed the opinion that the legal provisions referred to in the report failed to give full effect to the requirements of that article and that the provisions of the Statute of the Rights and Guarantees of Nicaraguans were not consistent with paragraphs (a), (b) and (c) of article 4. Further clarification was requested in that regard.

460. Referring to other information provided on the implementation of article 5 of the Convention, some members of the Committee noted that they had no doubts regarding the sincerity of the Nicaraguan Government in trying to improve the socio-economic position of the people in the most neglected areas of the country and that very progressive steps were being taken in that respect. Referring to the statement in the report that one section of the country's population was resettled, it was pointed out that the Committee was duty-bound to consider whether racial discrimination or restriction on the right of freedom of movement were involved, and the fact that such an explanation was requested did not mean that the Committee wished to destabilize the revolutionary process in Nicaragua. It was also asked whether the resettlement had been carried out in consultation with the people or one of their organizations in view of the fact that forced displacements of civilians to another territory was not allowed by the rules of armed conflicts (see art. 17, Additional Protocol II, 1977). As regards the rights to participate in elections, some members wished to know how and according to what rules elections to municipal councils had been organized in Nicaragua and whether the ballot had been secret. As to the right to freedom of assembly and association, more details were requested regarding the policy regulations governing the right to demonstrate publically. Further questions were raised concerning *inter alia* the rights to nationality, to freedom of religion and opinion as well as to the right to public health.

461. With reference to article 6 of the Convention, it was noted that Nicaragua had provided in its revised penal procedure further guarantees of fair trials for detainees, which showed the Government's sincerity in adhering as closely as possible to the provisions of that article of the Convention. The hope was expressed that additional progress in the legislative field would be described in the next periodic report of Nicaragua.

462. The representative of the reporting State replied to some questions raised by the Committee. Referring to the status of the Miskito community, he stated that the Government had invited the Inter-American Commission on Human Rights to visit the country to make an on-the-spot investigation into the situation of the Miskitos. The visiting mission had conducted its investigation in May 1982 and had had access to a wide range of individuals and organizations concerned with the matter. The recommendations of the Commission were accepted by the Government with the aim of reaching a solution to the problem, which could entail the relocation to new settlements of the 8,500 Miskitos who had been moved from their homes. The Government had given an undertaking in writing to the Inter-American Commission to allow those who wished to do so to return to their

homes when the emergency ceased and when the state of war no longer existed.

463. With regard to statistics regarding the composition of the population, he said that the Government was not in a position to provide such information at the current time, but it would endeavour to respond fully to all the comments and questions of members in its next report. With respect to the elections, he explained that the country was in the process of creating new institutions and that a draft electoral law was expected to be adopted by the end of 1983 and elections should therefore be held in 1984.

464. In conclusion, the representative stated that only four years after the revolution Nicaragua could boast of having ratified most of the international legal instruments for the protection of human rights, of having received three visiting missions of the Inter-American Commission on Human Rights at its own request and of having an active national human rights commission.

CERD A/43/18 (1988)

80. The Committee considered the fourth periodic report of Nicaragua (CERD/C/128/Add.1) at its 818th meeting, held on 3 August 1988 (CERD/C/SR.818).

81. The report was introduced by the representative of the State party, who indicated that Nicaragua's new political Constitution had entered into force on 9 January 1987. She highlighted various provisions designed particularly to preserve peace and to institute a more equitable international order. In addition, for the first time in its history, the country's multi-ethnic character was recognized. Furthermore, the languages of the indigenous peoples and communities of the Atlantic coast were recognized as national languages, the equality of all citizens before the law was guaranteed, and slavery and all forms of discrimination were prohibited in accordance with the rules of international law which the Government had undertaken to respect.

82. The representative pointed out that the dialogue between the indigenous peoples and the Government, which had been initiated as soon as work on the Constitution had begun, had been continued and had made it possible to solve a large number of problems. Thus, more than 400 representatives of different ethnic groups had approved the latest version of an autonomy bill, which was subsequently to be adopted by the National Assembly on 2 September 1987 and which constituted the legal and political framework for the practical implementation of the provisions of the international instruments relevant to the struggle against racial discrimination. Furthermore, the National Assembly was in the process of considering an electoral bill which gave the indigenous peoples real equality in the exercise of their political rights and enabled them to elect their representatives to an autonomous regional government. In addition, 18 cease-fire agreements had been concluded with several armed indigenous groups, as the Secretary-General of the Organization of American States had been able to verify on 17 May 1988. In addition, since 1985 almost 26,000 indigenous persons had been voluntarily repatriated with the collaboration of the Office of the United Nations High Commissioner for Refugees and under the observation of a Commission of the European Parliament which had visited the country in April 1988.

83. Lastly, the representative of the State party stressed the difficulties caused by the war of aggression being waged against her country, which caused victims among the civilian population every day and which constituted an obstacle to respect for human rights. In such circumstances, it was extremely difficult to ensure respect for the economic rights of the population.

84. Members of the Committee congratulated the Government of Nicaragua on its excellent report, which had been drawn up in accordance with the Committee's guidelines (CERD/C/70/Rev.1), and thanked its representative for a very useful and comprehensive updating. In particular, they noted that the Government had not hesitated to mention in its report the factors and difficulties which affected the implementation of the Convention and had endeavoured to reply to the many questions that had been asked during the consideration of its previous report. Members also stressed the real progress that had been made in finding solutions to the problem of racial discrimination, despite the difficulties situation which prevailed in the country. In that connection, it was asked whether the implementation of certain articles of the Constitution was still suspended and whether some of the ethnic groups mentioned in the report were taking part in the conflict. It was noted with satisfaction

that the Convention, as well as other rules of international law, had been directly incorporated in national legislation.

85. With regard to article 2 of the Convention, members of the Committee noted the adoption, in September 1987, of the Indigenous People Autonomy Act and welcomed a number of its provisions relating, inter alia, to the administration of public affairs, respect for the property rights of indigenous peoples, and the study of languages. Nevertheless, further information was requested on the limits and scope of the autonomy granted, the effects of the current negotiations with various ethnic groups on the implementation of the Act, the reasons why the Atlantic coast region had been divided into two zones, the composition of the ministerial delegations in those two zones, and the principles of the Sandinista Revolution that were applicable to the indigenous peoples.

86. Members of the Committee stressed the exemplary nature of the measures taken by Nicaragua to implement article 3 of the Convention.

87. With regard to article 4 of the Convention, the view was expressed that the article was not being fully applied in Nicaragua and further information was requested in that connection. Nevertheless, it was noted with satisfaction that the crime of genocide was punishable under the Penal Code.

88. As far as article 5 of the Convention was concerned, further information was requested about the participation of the various indigenous groups in the elections scheduled for 1988 and with regard to freedom of movement inside Nicaragua and freedom to return to it. In that connection, further information was requested concerning the possibility of extending the Amnesty Act mentioned in the report and repatriation of Mesquito refugees in Honduras. With reference to the right of everyone to own property, it was asked what total area of the land was held or traditionally occupied by the indigenous peoples and communities of the Atlantic coast, what their position was with regard to the right to own land and to benefit from the industrial exploitation of the region and its forestry resources, and whether the Government was considering the institution of a mixed economy in the country. In addition, details were requested on the situation of the Moravian Church and on the restrictions on freedom of opinion and expression and freedom of association.

89. Additional information was requested on the implementation of article 6 of the Convention. In particular, details were asked about the kinds of violations that were punishable, the complaints recorded and the decisions handed down by the courts.

90. On the subject of article 7 of the Convention, it was noted that the Government had adopted measures to organize literacy campaigns and it was asked whether any training to promote human rights and combat racial discrimination had been introduced, especially in schools and universities and for members of the police, the civil service and the armed forces.

91. In response to various questions about the Indigenous Peoples Autonomy Act, the representative of the State party said that the purpose of the people's revolution had, in particular, been to take action for the benefit of the indigenous peoples. However, for various reasons, especially historical reasons, the relationship between the central authorities and the Atlantic coast indigenous communities was one of mistrust. The Autonomy Act had recognized the rights and duties of those peoples and in that connection she drew attention to some of its provisions concerning, inter alia,

the right to own property. She added that although it had previously constituted a single administrative entity the Atlantic coast had temporarily been divided into two zones, as a result of the very great difficulties of communication between the north and the south of the region.

92. Replying to questions raised in connection with article 5 of the Convention, the representative of Nicaragua said that there were 14 political parties in her country, 7 of which were represented in the National Assembly. Most of the indigenous groups which had taken up arms had signed the peace accords providing for the cease-fire and the amnesty law had been extended until July 1987, the date of entry into force of Esquipulas II Agreement. On the right to own property, she explained that the State recognized the right of the Atlantic coast communities to use their lands and their natural resources, but that those populations did not recognize the concept of private property. The Constitution also guaranteed a mixed economy and recognized the existence of various forms of landownership, all of which served the higher interests of the nation.

93. Referring to other rights recognized in article 5 of the Convention, the representative drew attention to the constitutional provisions guaranteeing freedom of religion, opinion, expression and association. Moravian Church ministers were not prevented from using English in their preaching and the activity of religious groups on the Atlantic coast was flourishing, as was attested by the recent translation of the Bible into the Sumo language. Workers and members of religious groups alike had the right, without any discrimination, to form associations. Freedom of the press was guaranteed and, since the entry into force of the Esquipulas II Agreement, all censorship had been removed.

94. Replying to the questions asked about article 7 of the Convention, the representative said that the cultural identity of indigenous peoples was fully recognized and that they had the right to use their own languages in all every day activities. Primary education was provided in the pupils' mother tongue and a bilingual education body existed in each of the Atlantic coast zones. Considerable efforts had also been undertaken to produce educational radio programmes for the benefit of the indigenous groups, and a programme for the teaching of law had been launched for members of the police force, the armed forces and the civil service. Seminars on the rights of indigenous peoples were also organized on a regular basis. She drew attention, however, to the practical difficulties of stimulating an awareness among the majority population of human rights and the rights of indigenous groups.

CERD A/50/18 (1995)

499. The fifth, sixth, seventh, eighth and ninth periodic reports of Nicaragua, submitted in one document (CERD/C/277/Add.1), were considered by the Committee at its 1110th and 1111th meetings, held on 7 and 8 August 1995 (see CERD/C/SR.1110 and 1111).

500. The report was introduced by the representative of the State party, who referred to the tragic events that had affected his country, in particular the political struggles that had given rise to civil wars and dictatorships. With the election in 1990 of Mrs. Chamorro, the candidate of a coalition of 14 political parties, Nicaragua had embarked on a process of transition towards economic and social reconstruction, strengthening of democracy and national reconciliation. To that end, the main programmes being implemented by the authorities related to combating poverty, decentralization and encouraging the establishment of small- and medium-sized businesses. The process was fraught with difficulties, however, due to the country's poor economic and social situation, with the highest rate of external indebtedness in the world, a very low GDP and a very high birth rate (3.7 per cent).

501. Article 5 of the 1987 Constitution, amended in 1995, enshrined the principle of political, social and ethnic pluralism, by recognizing for the first time the existence of indigenous populations who thus enjoyed constitutional rights and guarantees, in particular the right to preserve their identity and their culture, to adopt their own social structure and administer their local affairs and to maintain community forms of land ownership, enjoyment and use. Article 121 of the Constitution stipulated that the indigenous populations of the Atlantic Coast regions were entitled to a multicultural education in their region. Most of the ethnic groups in Nicaragua lived in the two Atlantic Coast regions and were composed chiefly of mestizos, Miskitos, Creoles, Sumus and Ramas. Those regions were the least densely populated in the country, with a population that was 35 per cent urban and 40 per cent rural, with the rest living in scattered areas.

502. The legal system set up by the authorities in 1986 to protect the minorities in accordance with the Convention was described in detail in the report, in particular the relevant provisions of the Constitution and Act No. 28, the Autonomy Statute of the Atlantic Coast Regions of Nicaragua. The latter provided for the establishment of Governments of the Autonomous Regions, comprising a Regional Council, a Regional Coordinator and municipal and communal authorities, with decision-making power regarding the use of natural resources.

503. Thanking the representative of Nicaragua for the additional information he had provided in introducing the report, the Committee expressed its satisfaction at the resumption of dialogue with Nicaragua, but noted with regret that the report did not contain specific information on the implementation of the anti-racial-discrimination legislation and the Convention. The Committee reminded the representative of Nicaragua that regularity in submitting periodic reports under the Convention (every two years) was essential for an effective dialogue with the Committee.

504. Regarding the general part of the report, the members of the Committee requested more information on the composition and operation of the Nicaraguan Institute for the Development of the Autonomous Regions (INDERA) and up-to-date information on the indigenous populations, in particular their composition, geographic location and economic situation, throughout the territory

of the country. The members of the Committee pointed out that the report contained information on the ethnic minorities of the Atlantic Coast only and asked about the other minorities and indigenous groups living in Nicaragua, especially those on the Pacific coast. They also asked about the status of international conventions, in particular the International Convention on the Elimination of All Forms of Racial Discrimination, in Nicaraguan domestic law.

505. With regard to article 2 of the Convention, the members of the Committee asked for further information on the policies implemented to combat all forms of racial discrimination. Concerning article 2, paragraph 2, they also asked for more information on the effective functioning and strengthening of the powers of the two Regional Councils set up by the 1987 Autonomy Statute, especially with regard to conservation and use of natural resources and to their degree of political and administrative autonomy with respect to the central government in Managua. Information was also requested on the situation of the special fund for social development and progress provided for the two Autonomous Regions and on the amount of financial resources allocated annually by the central authorities to the operating budgets of the autonomous governments. They also asked for further information on the draft legislation to be prepared, in consultation with the indigenous populations concerned, on the rational use and conservation of the natural resources of the autonomous regions.

506. The Committee noted that the information provided in connection with article 3 of the Convention was inadequate, inasmuch as practices identical to apartheid continued to exist in several parts of the world. The members of the Committee therefore asked for additional information on the measures taken by the authorities under article 3 of the Convention.

507. With regard to article 4 of the Convention, in view of the lack of information in the written report, the members of the Committee asked for further details on the positive legislative steps taken by the authorities, especially in the criminal sphere, to make all forms of racial discrimination punishable offences; in that connection, they asked the representative of Nicaragua whether the Statute on the Rights and Guarantees of Nicaraguans, mentioned in the previous report, article 22 of which prohibited all propaganda against peace and any advocacy of national, racial or religious hatred, was still in force, and if so, whether it was applied and in what context.

508. Noting the lack of information on article 5 of the Convention in the report, the Committee asked for additional information on the steps taken to implement that article, in particular the measures adopted, and their application, to ensure the equality of all before the law and the exercise of political, civil, economic, social and cultural rights by everyone, without discrimination.

509. Concerning article 6 of the Convention, the members of the Committee asked for explanations of the steps taken by the authorities to facilitate the return and resettlement of the members of indigenous groups who had fled to Honduras and Costa Rica during the hostilities, in particular long-term measures; they also asked for information on the functioning of the judicial bodies in the Autonomous Regions and on the administration of justice in general in those regions, which according to article 18 of the Autonomy Statute was governed by special regulations. They also asked what remedies were available in cases of racial discrimination. Information was also requested on the establishment of the Human Rights Advocate and on his powers and functions.

510. In connection with article 7 of the Convention, the members of the Committee asked what were the "cases specified by law" in which, according to article 11 of the Constitution, "the languages of the communities of the Atlantic Coast region of Nicaragua shall also be used officially". Since the relationship of the indigenous peoples of the Atlantic Coast with their land was basic to their culture, the members of the Committee asked what was the area of the inalienable lands of those groups and requested details of the provisions governing the mineral resources found on them.

511. In response to the questions and comments by members of the Committee, it was said by the representative of the State party that the Nicaraguan Institute for the Development of the Autonomous Regions (INDERA) had recently been disbanded, firstly because its main function, to bridge the gap between the national Government and the Atlantic Coast autonomous regions, was no longer relevant as regional governments and councils had been consolidated, and secondly because the management of the Institute was primarily handled by representatives of the Misquito community, thus leading to discontent among the members of other ethnic groups who felt they were not adequately represented. He said that there were various indigenous communities in the Pacific coast regions, with populations of between 14,000 and 28,000 inhabitants, but in general those indigenous populations had been assimilated into the local community, thereby losing their traditional cultures and customs.

512. Responding to specific questions regarding the exploitation of natural resources in the autonomous regions, the representative of the State party said that the central Government issued the licences, which were subject to the approval of the Regional Councils. The regional territory could not be yielded without the prior approval of the Regional Councils, the resulting disputes between the State and the Regional Councils being dealt with by the Supreme Court of Justice.

513. The representative added that concerning the bilingual inter-ethnic education programme, teachers, instructors and leaders and representatives of indigenous communities were directly involved in its implementation, which had covered 13,000 children between pre-school age and the fourth grade of primary school, in 1992. A bilingual teacher training centre had been set up in Puerto Cabezas in the North Atlantic Coast region. He added that in the autonomous regions, the languages spoken by the indigenous communities were used officially in the administrative organs of the regions, in addition to Spanish; translations of employment contracts and collective agreements must be guaranteed and all staff involved in the administration of justice and law enforcement officials must be able to understand the languages spoken by all parties involved in a dispute. In the field of technical education, the Nicaraguan Institute of Technology and a number of indigenous organizations had organized between 40 and 50 courses aimed at job creation and the enhancement of technical skills, particularly for the benefit of demobilized persons, returnees and women heads of household, in about 60 indigenous communities. Some 300 people had participated in workshops designed to encourage the launching of small-scale projects and micro-enterprises.

514. The representative said that his Government had allocated funds through the Emergency Social Investment Fund (FISE), which had been promoting the development of economic and social infrastructures such as bridges, roads, waterways, educational buildings, health centres and in reforestation programmes. The Nicaraguan Institute of Energy, with foreign assistance, had invested US\$ 5 million in the previous two years in new electric power plants designed to improve energy

distribution in urban centres such as Bluefields and Puerto Cabezas.

515. Regarding tourism in the autonomous regions, the Ministry of Tourism was preparing cultural and environment-friendly tourism programmes, in which members of the communities were trained to run the projects, and advisory services were available for the launching of community-based initiatives.

516. The representative said that a Commission on Ethnic Affairs and Indigenous Communities had been set up in the National Assembly, all its members being from the indigenous population; this Commission had prepared the Nicaraguan Plan of Action for the International Decade of the World's Indigenous People, comprising several themes and activities each year until the year 2004.

517. At the same time, the representative emphasized that it was impossible to redress in such a short period of time the consequences of civil wars, foreign occupation, dictatorship, natural disasters and negligence on the part of the central authorities.

518. Concerning Nicaraguan involvement in the international and interregional protection of the rights of minorities, the representative said that Managua was the headquarters of the Indigenous Parliament of America, which recently held the eleventh Inter-American Indigenous Congress, during which the Managua Declaration was adopted; the Declaration noted the urgency of recognizing the tenure of land belonging to the continent's indigenous populations, of establishing coordinating machinery between States and indigenous populations to facilitate decision-making on matters concerning those populations, and of involving indigenous peoples in all aspects of political, legal, economic and social life. Nicaragua had actively participated in the activities of the Working Group on Indigenous Populations of the Subcommittee on Prevention of Discrimination and Protection of Minorities since its establishment in 1982 and it also supported the drafting of a declaration on the rights of indigenous peoples.

519. The Committee thanked the representative for the supplementary information provided, but noted that the delegation had failed to explain how it was complying with article 4 of the Convention.

Concluding observations

520. At its 1124th meeting, held on 16 August 1995, the Committee adopted the following concluding observations:

Introduction

521. Appreciation is expressed for the resumption of the dialogue between Nicaragua and the Committee, and for the detailed and frank report submitted by the State party. It is however regretted that the report provided insufficient factual information, especially with regard to the implementation of the Convention and the related domestic legislation. The delegation which presented the report is commended for the useful additional information provided orally, in response to the questions raised and comments made by the Committee members, and its commitment to provide the Committee with written answers is most welcome.

522. The armed conflict raging in the country during the past decade, in which the indigenous populations were, willingly or unwillingly, used as political, military and strategic tools, dominated the overall human rights picture of the country, and still has some consequences for the full enjoyment of human rights by all Nicaraguans, together with the political problems of governance and economic crisis, which still persist.

523. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee requested that the possibility of such a declaration be considered.

Positive aspects

524. The Constitution of 1987, which recognizes for the first time the multi-ethnic character of the Nicaraguan population and grants to all persons the enjoyment of the rights proclaimed in various international and regional instruments, is welcomed. Other encouraging developments include the provisions of the same constitution and of Act No. 28 of 1987, known as the Autonomy Statute, which establishes a special regime of autonomy for two regions of the Atlantic coast of Nicaragua where most of the ethnic minorities and the indigenous groups live. The Autonomy Statute recognizes and guarantees, among other things, the communal form of land ownership of the peoples of the two autonomous regions and their right to education in their own language.

525. The Committee welcomes the constitutional amendments of 1995, especially the provisions which emphasize the ethnic pluralism of Nicaragua and reinforce the rights of the indigenous populations and other ethnic groups of the Atlantic coast, including the right of the regional councils to approve agreements for the exploitation of their natural resources.

526. The adoption of the Amparo Act in 1988, providing for the right to habeas corpus in the constitutional, administrative and criminal spheres, and the statement made in the report that cultural, social and other factors are taken into account when members of the indigenous communities are tried, are both welcomed. Note is taken with appreciation of articles 549 and 550 of the Criminal Code, inspired by the Convention on the Prevention and Punishment of the Crime of Genocide.

527. The elections in 1990 and 1994 of the two Regional Councils, which are granted important functions and powers by the Autonomy Act of 1987, in particular with regard to the conclusion of agreements between the regional and central governments on rational use and exploitation of the regions' natural resources, are noted with satisfaction, as is the constitutional provision of 1995 to enact a new and more complete law for the autonomous regions.

528. It is noted with appreciation that efforts are being made by the authorities to set up a multi-lingual education system in favour of the indigenous communities, and that, in accordance with Act. No 162, indigenous languages besides Spanish are of official use in the autonomous regions.

529. The establishment in the constitutional reforms of 1995 of the Office of Human Rights Ombudsman to inquire into human rights violations and to monitor the implementation of

international human rights instruments ratified by Nicaragua, such as the Convention, is welcomed.

530. The efforts made by the State party, in cooperation with the United Nations, to arrange the repatriation and the resettlement of the Miskitos, Sumus and Creoles who fled to neighboring countries during the civil conflict, are commended.

Principal subjects of concern

531. Concern is expressed as to the status of the Convention in the domestic legal order of Nicaragua and the lack of information about this in the report and during the oral presentation.

532. It is noted with concern that the State party has not implemented the provisions of article 4 of the Convention, which call for the adoption of positive measures and specific penal legislation to combat racial discrimination.

533. The realization of economic and social rights is a matter of continuous concern, in particular as the so-called structural adjustment measures and the privatization of State property have had negative consequences on the enjoyment of the economic, social and cultural rights of the Nicaraguan people, especially on its most vulnerable sectors and among them the indigenous communities.

534. It is regretted that insufficient information was provided on the implementation of articles 5 and 6 of the Convention, in particular on specific provisions of the domestic legislation adopted to implement these articles and on the number of complaints of racial discrimination brought before the courts.

535. Concern is expressed at the ratio of communal land to private land in the autonomous regions, with particular regard to the mining rights and at inequalities in the sharing of the benefits of the exploitation of natural resources in the autonomous territories between the regional and the central authorities.

536. Further concern is expressed at the lack of adequate consultation with the regional authorities in the decision-making process by the central authorities, thus leading to insufficient participation of the indigenous groups in decisions affecting their land and the allocation of the natural resources of their land, their cultures and their traditions.

Suggestions and recommendations

537. The Committee recommends that the State party implement the obligations under the provisions of article 4 of the Convention.

538. In view of the importance of measures in the fields of teaching, education, culture and information to combat prejudices which lead to racial discrimination and to promote understanding, tolerance and friendship among racial and ethnical groups, the Committee recommends that the State party takes all necessary measures in those fields in accordance with article 7 of the Convention.

539. The Committee recommends that, in its policy-making on matters relating to racial discrimination at large, the Government take into account the general recommendations adopted by the Committee, including those relating to the establishment of a national commission for the purpose of facilitating the aims and purposes of the Convention (general recommendation XVII (42)) and to the training of law enforcement officers (general recommendation XIII (42)).

540. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted by the fourteenth meeting of States parties.

541. The Committee recommends that the State party's tenth periodic report, due on 17 March 1997, be a comprehensive report.