

NICARAGUA

List of issues in connection with the tenth to fourteenth overdue periodic reports, due from 1997 to 2006

Ethnic composition of the population

1. Please provide detailed information on the ethnic composition of the population, including indigenous peoples, people of African descent, internally displaced persons, migrants and refugees. Please indicate the geographical location of the various indigenous peoples' communities and other ethnic minorities within the country, both on the Atlantic and on the Pacific coasts.

General legal framework

2. What is the status of the Convention in domestic law? Can it be invoked directly before national courts? If so, please provide examples.
3. Please provide information on the mandate and activities of the *Procuraduría para la Defensa de los Derechos Humanos de Nicaragua* which was initially set up to monitor the implementation of international human rights instruments ratified by the State party. In addition, the Committee requests the submission of information on the contribution and role of the *Procuraduría* in the preparation of reports and in the implementation of the Committee's recommendations.

Articles 1 & 2

4. In addition to the right to equality guaranteed in Articles 27 and 89 of the Nicaraguan Constitution, has the State party adopted and effectively implemented domestic legislation protecting against racial discrimination all indigenous peoples, people of African descent and members of other ethnic minorities on the territory of the State party, including those living on the Pacific Coast? Does this legislation, if any, provide a definition of racial discrimination in keeping with that of Article 1(1) of the Convention?

Article 4

5. In addition to Articles 549 and 550 of the Criminal Code, please provide information on the legislative, judicial, administrative and other measures which give effect to the provisions of Article 4 of the Convention.
6. Please provide the Committee with information on the nature of complaints received by courts pursuant to Articles 549 and 550 of the Criminal Code as well as on their final outcomes.

Article 5

7. In light of the Inter-American Court of human rights decision in the YATAMA case, please provide information on measures taken to ensure that members of indigenous peoples' communities enjoy the right to equal treatment before national courts. Has the Electoral Law (*Ley Electoral*) No. 311 been effectively amended in compliance with the above-mentioned decision? Furthermore, please provide the Committee with information on the possibility for individuals to use their own language in their dealings with the courts.
8. Please provide detailed information, including statistical data disaggregated by gender, on the participation of members of indigenous peoples, people of African descent and members of other ethnic minorities in State institutions, in particular in Parliament, as well as in regional and local government institutions.
9. Please provide information on the Regional Autonomous Governments established under the Law No. 28, *Estatuto de Autonomía de las Regiones de la Costa Atlántica de Nicaragua (Autonomy Statute)* and regulated by the 2003 By-Law, *Decreto no. 3584*. Has the institutional framework put in place proven effective in providing local populations with the possibility to participate in decision-making? Please supply the Committee with concrete examples demonstrating the effectiveness of the Regional Councils and Regional Coordinators in representing and promoting the interests of coastal communities.
10. Please provide information on measures undertaken to implement the 2001 Inter-American Court of human rights judgment in the *Awas Tingni* case. In particular:
 - Please comment on information according to which the Government has failed to effectively protect *Awas Tingni* lands from frequent intrusions by settlers and loggers while awaiting proper demarcation, as required by the 2002 Inter-American Court provisional measures resolution. Furthermore, has the State party taken actions to prosecute the persons responsible for illegal settlements and logging and to compensate the affected communities for damages?
 - Following the February 2007 resolution issued by the Demarcation Commission of the Northern Autonomous Regional Council and ratified by the Regional Council in which the *Awas Tingni* received 20 000 hectares of the 41 000 hectares disputed with neighboring communities, known collectively as *Tasba Raya*, has the CONADETI (*Comisión Nacional de Demarcación y Titulación*) taken any action in order to effectively demarcate, delimit and title the *Awas Tingni* territory?
 - Furthermore, how will the rights of the 23 *Awas Tingni* families who will be affected by the granting of 21 000 hectares in favor of the *Tasba Raya* be taken into account? Will the communities concerned be consulted during the demarcation process?

- What additional measures have been taken, if any, in order to ensure that the Law No. 445, *Ley de Régimen de Propiedad Comunal (Land Demarcation Law)* is effectively implemented, to speed up the process of demarcation of communal land, and to grant the land demarcation institutions with the necessary human and financial resources?
11. Does the State party envisage becoming a party to ILO Convention No. 169 on Indigenous and Tribal Peoples?
 12. Please provide statistical data, disaggregated by gender, on types of employment engaged in by indigenous peoples and people of African descent. In addition, please provide information on measures undertaken by the government to ensure equal access to the labor market for members of all communities.
 13. In light of disparities in levels of development between different regions in Nicaragua, please supply information on the policies adopted guaranteeing indigenous peoples and people of African descent equal access to social services. Furthermore, please provide information on the status of implementation of the *2004-2015 National Health Plan (Plan Nacional de Salud)*. Does it ensure that indigenous peoples and people of African descent have equal access to public health care services?
 14. The Committee notes the efforts undertaken by the Ministry of Education, Culture and Sports (*Ministerio de Educación, Cultura y Deporte*) in order to ensure the implementation of the National Education Plan (*Plan Nacional de Educación*). Please provide additional information on access to educational institutions and the measures undertaken to ensure quality education in the Autonomous regions.
 15. Please provide information on the use of indigenous peoples and other ethnic minority languages in education, including information on the application and effectiveness of the *Bilingual Intercultural Education Programme*. Furthermore, please provide information on the measures taken to date for the implementation of the *Ley General de Educación No. 582* and of the *Sistema Educativo Autonómico Regional (SEAR)*.

Article 6

16. Please provide information on the complaints of racial discrimination brought before the *Procuraduría para la Defensa de los Derechos Humanos de Nicaragua*, the proceedings initiated and the outcomes of the cases involved, including whether the victims received just and adequate reparation.
17. Please also provide information on additional mechanisms available for addressing complaints of racial discrimination, including the possibility to use the procedure of *Amparo*, as provided by Article 45 of the Nicaraguan Constitution and Law No. 49, the *Amparo Act*.

18. Please provide information on the administrative and judicial remedies available for indigenous peoples and people of African descent in order to claim their land rights, and comment on their effectiveness.

Article 7

19. Please provide the Committee with information on measures aiming to promote inter-cultural dialogue and tolerance. In particular, please supply information on measures put into place which may alleviate inter-ethnic tensions in the Atlantic regions.
20. Please provide information on the measures put in place in order to combat prejudice and negative stereotypes, including in the media, regarding indigenous peoples and people of African descent in the State party, in particular in the Pacific region.
21. Please inform the Committee on efforts to provide training to law enforcement officials on the Convention and to promote awareness of the Convention and human rights in general among civil society. In particular, please indicate to what extent school curricula include programmes to combat prejudice and to promote tolerance.
