

MISKITU RESISTANCE
A FIGHT FOR TERRITORY AND LIFE



CEJIL 

Report produced by the Center for Justice and International Law (CEJIL)

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PROLOGUE

Nicaragua is experiencing a democratic and human rights crisis that had been developing for years and became more acute with the protests and subsequent acts of repression of April 18, 2018¹. After multiple demonstrations for social security reforms, the State of Nicaragua suppressed protesters, causing deaths and injuries, and ordered arbitrary arrests and criminalized opposition leadership. Since then, at least 325 people have died violently, 550 people have been arbitrarily deprived of their freedom², and more than 40,000 Nicaraguans have sought refuge in neighboring Costa Rica.

Although the violence increased after April 18, 2018, several regressive regulatory and institutional reforms had been implemented long before. These came in the form of concentration of power in the President and the Vice President, through the limiting of independence of the legislative and judicial branches; the co-optation of institutions such as the Public Ministry; the arbitrary cancellation of political parties; the persecution of organized civil society, among other actions.

Different social sectors suffered violations of their human rights. Such is the case of the Miskitu indigenous peoples, who, long before the 2018 protests, had been victims of acts of violence that were never investigated or punished by the State. Many of these incidents include the invasion of their territories, forced displacement, and a food crisis that has endangered the lives of its members and the survival of some of their communities.

This dire situation that seriously violates their fundamental rights has remained almost invisible, far from national and international attention, despite its gravity and permanence over time.

That is why, for both the Center for Justice and International Law (CEJIL) and the Center for Justice and Human Rights of the Atlantic Coast of Nicaragua (CEJUDHCAN), it is imperative to publish this report now; not only to make this serious situation of the violation of human rights more visible, but also so that when reforms for the return of democracy in Nicaragua are resumed, the legitimate demands of indigenous peoples, particularly the Miskitu people, are considered and included.

1

PRESENTATION AND METHODOLOGY OF THE REPORT





There has been a lot of fear. Members of the community abandoned their houses and left their lands, but they have not returned. Most of the community fled. More than 40 families fled around 2017 when we did not return. They went to other villages and other communities.

Eduardo, Santa Clara, May 2018

Members of the indigenous group Miskitu (or Miskito) are originally from the territory known as Mosquitia, which extends from the northeast of Honduras, in the department of Gracias a Dios, to the Caribbean coast of Nicaragua, in the Autonomous Region of the North Caribbean Coast (RACCN). The wild forests that the Miskitu communities inhabit are characterized by their vast wealth of natural resources, including a wide diversity of flora and fauna; and industries based off of fishing and mining. In these territories, the Miskitu communities survive as a result of their work on collective lands, on which they depend to live and to maintain their culture and identity, which has been recognized in Nicaragua's own legislation⁴.

In spite of this, the national and regional authorities of the autonomous regions of the Atlantic Caribbean Coast have not fulfilled their obligation to guarantee the rights of several of these indigenous communities. In particular, they have not taken any steps to protect the collective territories that have been demarcated and titled for the communities, in accordance with national laws⁵.

In this context, the State has been absent in the implementation of measures to avoid conflicts around territory and to safeguard the life and integrity of community members. In particular, the lack of state action in complying with national regulations and carrying out “sanitation” of titled lands, that is, to ensure the removal of non-indigenous persons or groups from the communal lands of the Miskitu, has caused a large scale crisis.

Despite possessing collective property titles of their territories, numerous indigenous communities in the region have been constantly attacked and threatened by groups of settlers who have violently dispossessed them of their lands. These people, often called mestizo or creole people, come largely from the Pacific coast of Nicaragua, have seized the land to exploit it, either independently or due to economic interests.

This growing invasion has substantially affected the way of life of the communities of the Miskitu people, forcing many of them to stop cultivating their plots of land or to abandon their ancestral territories permanently to seek refuge in other communities or in urban areas. The organized and deliberate violence of settlers against the communities has included assassinations, kidnappings, rape, physical attacks, and death threats. Nevertheless, the authorities have ignored these cases, meaning that the people responsible for these violations have not been brought to justice.

The forced displacement sharpens a situation of historical discrimination that already afflicted the Miskitu communities. This affects not only those who have been displaced, but also the families and communities that give them refuge.

Due to the occupation and siege by the settlers, those that didn’t leave or those that returned can no longer access a large part of their land to cultivate, hunt, or fish in order to sustain the lives of their families. **This situation is generating a silent crisis in terms of food deprivation, malnutrition, maternal health, access to education, and lack of a basic means to sustain a dignified life.**

As a result of this situation and in the absence of an effective response by the State, in 2015, CEJUDHCAN and CEJIL requested protection measures from the Inter-American Human Rights System (IAHRS) in favor of the inhabitants of twelve communities of the Miskitu people; they are located in the territories of Wangki Twi-Tasba Raya, Wangki Li Aubra Tasbaya, and Wangki Li Lamni Tasbaika Kum, all of them in the RACCN of Nicaragua⁶. Consequently, the twelve communities are now beneficiaries of precautionary measures granted by the Inter-American Commission on Human Rights (IACHR)⁷ and seven of them are beneficiaries of provisional measures granted by the Inter-American Court of Human Rights⁸ (Inter-American Court).

In addition, given that the members of CEJUDHCAN have been victims of numerous acts of persecution, harassment, and death threats for their work defending and assisting the communities, the aforementioned Inter-American bodies also ordered the Nicaraguan State to protect them⁹.

The most extreme and notorious violence by groups of settlers happened in 2015 and 2016, after which thousands of people were forced to move. In the following years, the number of attacks decreased, which was due to the occupation of the territories and not actions of the State to meet its obligations to protect and guarantee human rights of the community members. The result is clear: a greater marginalization of these communities, and with that even less protection.

In sum, the lack of government action to prevent and punish the attacks has created a climate of impunity. This has led to the invasion of settlers and the abandonment of indigenous communities. Furthermore, the absence of official measures to mitigate the impact of forced displacement and restricted access to their lands seriously compromises the survival of their indigenous culture and identity.



“I have been in government for 4 years
and I am in this position. They were
going to kill us, but if we are here
because of the health issues,
maybe we don't think it was to make
the situation.”

Lucia Wilmak, May 2008

Despite the precautionary and provisional measures issued by the IAHRs for the benefit of the communities and the workers at CEJUDHCAN, the State's lack of action has resulted in repeated violations of fundamental rights.

Among them, Nicaragua has violated, the right to life, personal integrity, access to justice, collective ownership of land, access to natural resources, cultural identity, health, education, and adequate food. In addition, it violated the right to defend human rights, particularly as it relates to those individuals that assist the communities in the defense of their territories, who have been constantly hindered in their work.

Based on the above, it can be affirmed that, in the best of cases, there is a government policy of total abandonment of the State's obligations.

This historical lack of protection and exclusion worsens in the context of the crisis currently facing Nicaragua. Several international bodies have called attention to the lack of judicial independence in the country and the politicization of institutions relevant to citizen security, such as the National Police¹⁰. In actuality, these elements affect not only people who have actively participated in demonstrations opposing the government, but they also have a serious and disparate impact on the indigenous communities that have been calling for justice for many years but whose voices remain unheard.

In this regard, the main purpose of this report is to raise awareness of this serious situation and urge the State of Nicaragua to comply with its human rights obligations on the rights of indigenous peoples.

CEJIL has been representing victims of human rights violations in the Americas before the IAHRs for over 28 years. Through its program for Central America and Mexico, it has monitored the human rights situation in Nicaragua for more than two decades and has accompanied hundreds of people and collectives in their search for truth, justice, and reparation. It has also actively collaborated with numerous non-governmental organizations to help achieve a more egalitarian region, and one that is more just and respectful of human rights.

For its part, CEJUDHCAN is a Nicaraguan non-profit organization, based in the RACCN and composed of indigenous professionals dedicated to the promotion and defense of human rights, particularly the collective and territorial rights of indigenous and Afro-descendant peoples, as well as their natural resources. CEJUDHCAN has joined in the defense of various Miskitu communities since 1997. CEJUDHCAN provided an immense amount of information and documentation contained in this report; they have also been invaluable in their support during the visits made in preparation of this document.

This report is based on the situation and experiences of those who are a part of the 12 communities of the RACCN that CEJUDHCAN and CEJIL represent before the IAHRs; this does not exclude the fact that similar situations are faced in other indigenous communities in the autonomous regions. However, the latter are not subjects of this study.

The methodology includes field visits to various affected communities carried out between January and May 2018 with the objective to gather stories from the victims of violence, their families, and their traditional authorities. The places visited were: Francia Sirpi, Esperanza Río Coco, Esperanza Río Wawa, Klisnak, Santa Clara, Santa Fe, San Jerónimo, Wisconsin, and Wiwinak. People from the communities of Cocal, Naranjal, and Polo Paiwas were also interviewed.

More than 50 semi-structured interviews were carried out, both in Spanish and Miskitu by the CEJIL and CEJUDHCAN teams. The identities of those who provided testimonies are confidential to ensure their safety. Additionally, this report is based on the information collected by CEJUDHCAN during its more than 20 years of work in the RACCN.

The research is also based on the examination of secondary sources, such as statistics and official materials, reports from civil society organizations, and others prepared by international cooperation actors. With the exception of some interviews with public officials linked to the administration of health services and education in the communities, it was not possible to interview state agents due to the political situation of the country. However, the report relies on public information provided by the State in processes before the bodies of the IAHRs, including resolutions of the IACHR and the Inter-American Court.

The report is divided into three major sections. **The first aims to establish the general context of the Nicaraguan Caribbean coast that existed before the outbreak of violence** generated by the presence of settlers in the area and the lack of sanitation of the lands. **The second refers to the outbreak of crisis with the communities**, explaining the different elements that account for a systematic and generalized violence that has a specific goal and its consequences on the lives of the affected communities. **The third section outlines the obligations of the state of Nicaragua** in light of the situation and the absolute failure to comply with them.


Finally, a series of conclusions and recommendations to address the problem is included, in light of the international standards discussed.



2

THE AUTONOMOUS REGION OF THE NORTH CARIBBEAN COAST AND INDIGENOUS PEOPLES





It is no longer the same, we cannot live in peace. The party cultural activities that we had have been embargoed and that's why feel like I am isolated."

Genevieve Wivorana, January 2018

The Autonomous Regions of the North and South Caribbean Coast of Nicaragua represent 50 percent of the total area of the country¹¹. They have ample resources and natural wealth: 95 percent of the national water basins cross the region; it has 72 percent of the country’s forest area, 70 percent of fishing production, 23 percent of the total agricultural area, and 60 percent of the mining resources¹².

RACCN, also known as the Autonomous Region of the North Atlantic (RAAN), represents an extension of more than 20 percent of the national territory of Nicaragua. The main indigenous peoples in the region are the Miskitu and Mayagna, with minor populations of other indigenous and Afro-descendant peoples registered¹³. Within the RAAN, there is an established autonomous regime for the indigenous peoples that is organized in 7 municipalities, the most populated being Puerto Cabezas (Bilwi) and Waspam.

The population in the region went up from 314,000 inhabitants in 2005¹⁴ to 490,000 in 2017¹⁵, an increase that is attributed primarily to internal migration¹⁶. The areas that have received the largest migrant populations of mestizo or creole people from different parts of the country are the municipalities of Siuna, Rosita, Bonanza, and Mululukú¹⁷.

Table 1: Indigenous population in RACCN (2005)

Indigenous People	Registered population in 2005 census	Estimated % of the total population of RACCN	Municipalities with the greatest presence
Miskitu	102.806	57,3	Waspam, Puerto Cabezas, Prizapolka
Mayagna	6.786	3,8	Rosita y Bonanza
Kriol	1.711	1,0	Puerto Cabezas
Rama	208	0,1	Waslala
Cacaopera	238	0,1	Waslala

Prepared by the author(s). source: inide, demographic characterization of the population of the autonomous region of the north atlantic 2005.

In 2005, the Miskitu people represented the main ethnic group of the RACCN; but due to internal migration today it is estimated that the mestizo or creole inhabitants are the majority¹⁸, despite the lack of recent census data. According to figures from CEJUDHCAN, it is estimated that there are approximately 7,980 people in the 12 communities that this report represents.

Historically, the region has suffered human development levels lower than the national average. The absence of up-to-date statistics to assess the dimensions of this situation in the different sectors of the population makes it difficult to carry out an in-depth analysis of the structural marginalization that affects indigenous and afro-descendant peoples. However, the following table presents a sample of the social exclusion that already affected the region according to the most recent statistics available¹⁹.

Table 2: Sociodemographic indicators RACCN

Indicator	Data from the RACCN	National Average	Source
Human Development Index (HDI)	0,466	0,597	UNDP: Human Development Report, 2005
Rate of mortality in children up to 5 years old (deaths per 1000 live births)	41	25	ENDESA, 2011-2012
Percentage of children under 5 who experience chronic malnutrition	Total malnutrition: 23%; Severe malnutrition: 11%	Total malnutrition: 17.3%; Severe malnutrition: 4.9%	ENDESA, 2011-2012
Percentage of children under 5 who experience global malnutrition	Severe malnutrition: 1.2%; Total malnutrition: 5.9%	Severe malnutrition: 0.9%; Total malnutrition: 5%	ENDESA, 2011-2012
Percentage of children who completed their vaccination schedule in the first 18 months of life	60 %	81,4 %	ENDESA, 2011-2012
Percentage of deliveries attended by specialized personnel	64,5 %	88 %	ENDESA, 2011-2012
Percentage of women that received medical attention during pregnancy	86 %	95 %	ENDESA, 2011-2012
Number of doctors for every 100,000 inhabitants	60	95	INIDE Statistical yearbook 2016

Indicator	2005	2015	Source
Percentage of population that has access to a safe and potable water network	13.2 %	66 %	Pan American Health Organization (PAHO), 2015
Ratio of girls for every 100,000 boys	101	100	World Bank, 2015
Illiteracy in population over 10 years old	36 %	20 %	Census 2005
Percentage of people without access to electricity	28 %	11 %	INEC, 2005-2015

Prepared by author(s) from the sources outlined in the table.

The United Nations Development Programme (UNDP) Human Development Report from 2005 reported the level of economic and social rights achieved in indigenous communities in the region. Living conditions were measured in terms of access to education, health services, electric power and transportation, water supply, and basic communication. Six of the communities focused on in this report had the lowest scores with severe deficiencies, three with low access to services and two at medium level (data from only 10 of the 12 communities are available)²⁵. At the departmental level, 60 percent of the communities were indexed with severe deficiencies²⁶.



In addition, during the visits held by CEJIL and CEJUDHCAN in 2018, nine Miskitu communities acknowledged that:

- Access from the main urban areas of the region (Waspam and Puerto Cabezas) to the communities is complex and travel can be long and on extremely deteriorated dirt roads. In some cases, because of river flooding, the trek can take up to 5 hours;
- Households do not have access to potable water. In all observed cases, the water supply is through wells and direct collection from rivers;
- More than half of the houses lack toilets;
- The vast majority of communities do not have a connection to the power grid. For those that have access to this service, it is not set up through official means, and some have electric generators;
- Schools in some of the communities are in very poor structural conditions and do not have basic furniture, such as chairs for students; and
- A minority of the communities have public health services. However, the conditions of these health units in the communities are very precarious. In six of the communities that are the subject of this study, there are medical posts that are attended by a professional nurse, but not necessarily with a permanent presence.
- According to a sample prepared by CEJIL and CEJUDHCAN, in four of the communities (Francia Sirpi, Santa Clara, Klisnak, and Esperanza Río Wawa) the percentage of children who experience chronic malnutrition exceeds 30 percent, which is significantly higher than the national average and the RACCN. In two of the communities, Esperanza Río Wawa and Klisnak, they also experience acute malnutrition figures that double the national average and the RACCN.

Taken as a whole, this data represents a significant dearth in the exercise and enjoyment of the rights of the people who inhabit the region. However, there is no detailed or updated official data on the living conditions of indigenous communities. This reflects the lack of action on the part of the authorities to collect and disaggregate information that adequately addresses the problems faced by the region.



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San Francisco State, May 2018

B. The relationship of the Miskitu peoples to their territory

Despite this social gap that affects many indigenous communities in the area, according to the testimonies of several of its inhabitants, the people maintained a dignified life and protected their cultural identity based on the fundamental relationship of the communities with their ancestral lands and their natural resources.

Agriculture is the primary livelihood of the Miskitu people²⁷. The communal property of the land constitutes a defining element of their culture²⁸. The interviews that CEJIL conducted with the traditional authorities of the communities confirmed this; the authorities pointed out that areas within the community territories are established for the cultivation and care of animals, communal hunting and fishing territories, land for harvesting plants and cutting wood, areas for spiritual use, as well as reserved and protected areas for the development of the community and future generations.

Within each of the communities, there is a system of traditional land management where each family receives plots for their cultivation and use for their subsistence. The right to use such plots can be transferred and inherited among the families that make up the community. In each community, there is a traditional authority called “síndico” that intervenes in conflicts that may occur due to the management of the lands.

In fact, the balanced relationship with land and natural resources represents a sense of basic well-being and harmony with the environment for the Miskitu population:

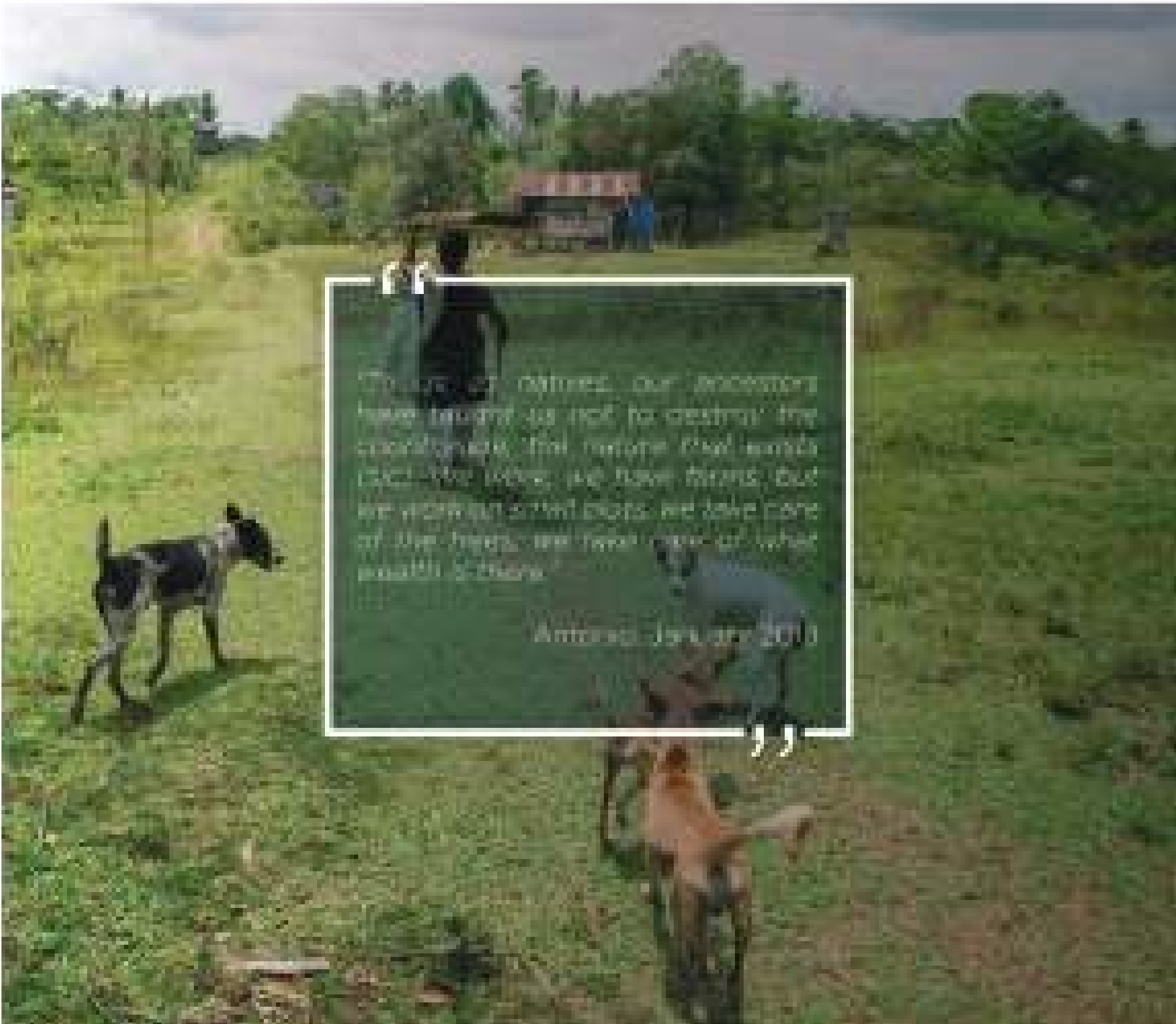


We were very busy in measuring our ways of living and experiences. We had our plots where we had talking with Bani about the concept that means such as drought, monitoring, purchase, notes and we find many. Our house was made of wood and had some other things that we thought our plots according to distances. It is not one way 30 minutes away. The time that we started was very busy. There were one between one and two hours after and it had no and ideas. The road place was better, we painted for arranged that area, such as package, packages and others. In addition, we had two rows and it had to be very clear and healthy. It is not one way 30 minutes away.

Thank you, Clara, for all.

In this system, the rotation of crops and land is key to maintaining productivity and the generation of surpluses, which allows some families to sell them in urban areas, such as the municipal capital of Bilwi (also known as Puerto Cabezas) and Waspam. Also, it gives them access to goods and services not produced in the community. The soil closest to the communities tend to be less productive, so the planting, cultivation, and hunting areas are usually far from where the communities are located²⁹.

This relationship with the land transcends its use as a mere productive resource; it represents a key element of the global relationship between the individual and the community, being that it provides not only their physical livelihoods but also emotional and cultural sustenance, as well as their identity. Within the framework of this relationship, the Miskitu community feels committed to the preservation of the environment, using the logic of an intergenerational passing of the land. From the Miskitu worldview, the harmony of human beings with nature is essential: “the earth must remain pure, without contamination, without being destroyed”³⁰.



“Our ancestors taught us not to destroy the environment, the nature that surrounds us. We have learned, but we do not know how to take care of the land, we have lost the wisdom of our ancestors.”
Antonio, January 2011

C. Recognition of indigenous identity in Nicaragua and communal property: legal framework and obligations of the State

Since 1987, the Political Constitution of the Republic of Nicaragua recognizes the native and Afro-descendant peoples, establishing their right “to maintain and develop their identity and culture, to have their own forms of social organization, and to administer their local affairs; as well as maintain their communal forms of dealing with property and land, and the use and enjoyment of them”³¹. The constitutional framework is developed at the legislative level, in the case of RACCN, by the Statute of Autonomy of the Regions of the Atlantic Coast of Nicaragua, approved in July 1987³². This, among others, recognizes the following rights of the communities of the Atlantic coast:

- Preserve and develop their languages, religions, and cultures;
- Use and enjoyment of the waters, forests, and communal lands within the scope of national development plans;
- Freely develop their social and productive organizations, according to their own values; and
- Define and decide their own ethnic identity³³.

In 2010, Nicaragua also ratified Convention 169 of the International Labor Organization (ILO) on indigenous and tribal peoples³⁴.

However, the Nicaraguan regulatory framework did not establish the mechanisms to enforce these rights, in particular, the territorial rights of indigenous peoples. Following a contentious case brought before the Inter-American Court by the Mayagna indigenous community of Awas Tingni on the Nicaraguan Atlantic coast in 2001, the Inter-American Court issued a judgment in favor of that indigenous community, noting that, although the national law recognized and protected the communal property, it lacked the adequate tools to measure, demarcate, and title indigenous communal lands³⁵.

Consequently, it ordered the State to adopt the necessary measures to create an effective mechanism to do so³⁶. In response, in 2003, the State promulgated the Law on the Regime of Communal Property of the Indigenous Peoples and Ethnic Communities of the Autonomous Regions of the Atlantic Coast of Nicaragua and Boca and Coco, Indio, and Maíz Rivers, better known as Law 445³⁷.

The law aims to:

“Guarantee indigenous peoples and ethnic communities full recognition of the rights of communal property, use, administration, management of traditional lands, and their natural resources, by their demarcation and titling³⁸.”

It also defines the collective property of indigenous communities as “the lands, water, forests, and other natural resources in them, which have traditionally belonged to the community, traditional knowledge, intellectual and cultural property, biodiversity resources, and other assets, rights, and actions that belong to one or more indigenous or ethnic communities”³⁹.

To carry out the process of demarcating and titling the indigenous lands, Law 445 establishes the authorities and mechanisms responsible to govern and develop the process of legalization of the territories:

- 1. **The National Commission of Demarcation and Titling (CONADETI for its Spanish acronym)**, is responsible for directing the demarcation process and deciding on demarcation requests⁴⁰.
- 2. **The Intersectorial Commissions of Demarcation and Titling (CIDT for its Spanish acronym)**, in an operational sense, brings representatives of the State and of each of the ethnic groups together in order to receive, review, and process the titling requests⁴¹.

According to the law, the demarcation and titling process consists of five stages summarized in the following table:

Map of recognized communities



Table 3: Stages of the sanitation process according to law 445

<p>Art. 46 and 47</p>	<p>Presentation of the request</p> <ul style="list-style-type: none"> • The process is initiated at the behest of the indigenous communities. • The process of analyzing the application involves the determination of the historical background of the community, the uses and tenancy of the land, the cartographic delimitation of the community, the identification of the neighboring communities, and the eventual conflicts with neighbors or third parties present in the territory.
<p>Art. 52</p>	<p>Resolution of conflicts</p> <ul style="list-style-type: none"> • The communities must autonomously conduct negotiation and mediation processes for the resolution of border conflicts identified through their traditional authorities. • When the communities are unable to resolve delimitation through their own authorities, the State will resolve the conflicts in continuation of the demarcation process.
<p>Art. 55</p>	<p>Measurement and marking</p> <ul style="list-style-type: none"> • The corresponding CIDT will proceed to measure and demarcate the community territory. • The resources allocated to the process of measuring and demarcating will be the responsibility of the State, without prejudice to the communities' ability to do so with their own resources.
<p>Art. 56</p>	<p>Titling</p> <ul style="list-style-type: none"> • Once the measurement and demarcation process has been completed, CONADETI will proceed to hand over the title within a period of 45 days. • The title will establish the beneficiaries, the demarcation of the land, location and boundaries, the traditional uses of the land and its inalienable, imprescriptible, unattachable, social, and collective domain character.
<p>Art. 59</p>	<p>Sanitation</p> <ul style="list-style-type: none"> • Once the title has been obtained, each of the communities can start, with the technical and material support of the Rural Titling Office (OTR), the stage of sanitation of their lands, in relation to third parties.

After the approval of the law, there was a significant delay at the beginning of its application. However, at present, the titling of 23 territories has been completed⁴², benefiting 304 communities with 227,185 inhabitants⁴³.

Each of these territories titled to the indigenous communities is “the geographical space that covers the entire habitat of a group of indigenous or ethnic communities that make up a territorial unit where they develop, in accordance with their customs and traditions”⁴⁴.

Now, the fifth and final stage of the process of execution of the title of the collective lands is the “sanitation”, which allows the effective exercise of the rights of the communities in their territories. This implies the resolution of all possible conflicts with natural or legal persons claiming rights (third parties). According to the law, the Rural Titling Office must provide “technical and material support” to the sanitation process of the titled territories “in relation to third parties that are within them”⁴⁵.

Since July 2013, CONADETI affirmed that the titling processes had been concluded in the three territories, and therefore were ready “to start with the sanitation activities”⁴⁶. However, it did not order the Rural Titling Office or other authorities to support the communities to make the titles effective; specifically, to force the removal of usurping individuals or groups from their lands. This lack of action to enforce the law has been a central factor in the current crisis. In fact, in the public hearing before the Inter-American Court, the Nicaraguan government denied its responsibility to achieve the sanitation of the titled lands, noting that it was the obligation of the indigenous communities themselves to do so through negotiation with the settlers and third parties⁴⁷.



D. Internal migration to the RACCN

The phenomenon of migration to the North Atlantic regions of Nicaragua is complex, long-standing, and a result of multiple factors. Among other things, it has meant the groups of migrating mestizos or creoles are invading indigenous lands, mainly in the broadleaf forests of the Wawa, Kukalaya, and Prinzapolk river basins⁴⁸. This phenomenon has transformed the demographic reality of the region, converting indigenous and afro-descendant peoples into a minority of the population⁴⁹.

For the most part, migratory movements are made up of impoverished people from the interior or the Pacific who have left their lands in different waves. They have different motives, but among them are the pressures from landowners to expand monocultures and the seasons of low coffee prices⁵⁰. Using harassment, these farmers have looked to the possibility of accessing “national” or cheaper land to cultivate, as well as for livestock or mining, often supported by powerful interests⁵¹. In fact, several testimonies collected during visits to the Miskitu communities in 2018 indicate that groups of settlers act under the orders of landowners who are seeking to expand their livestock interests.

For decades, the State has also promoted the establishment of extractive companies in the zone, through the granting of licenses for the exploitation of natural resources (mainly timber), and has facilitated the expansion of the interests of the livestock industry⁵². **Historically, state authorities and the mestizo population have seen the RACCN as a rich reserve of natural resources apt to be exploited. This vision is widely entrenched in the elites⁵³.**

As a result, this has provoked the accelerated occupation and illegal exploitation of Miskitu indigenous lands by third parties. This has been facilitated by the existence of ambiguous regulations and indolent or openly corrupt practices to grant fraudulent titles over indigenous territories through false contracts or the registration of supplementary titles⁵⁴.

“The State, through institutions such as the Judiciary, municipalities or mayors, and some public notaries, have promoted and created, with the issuance of legal or administrative instruments, the appearance of legality and the alleged right claimed by most of the third parties that are settled in indigenous and ethnic territories⁵⁵.”

As such, far from solving the structural problem and complying with current legislation that guarantees the rights of indigenous peoples, public authorities consider the situation in the area to be a conflict between private persons with equal rights. They have even pushed indigenous communities to accept settlers on their lands, allow cohabitation, and even the sale of community lands to third parties⁵⁶. This was recognized by the Nicaraguan government during a hearing held before the Inter-American Court, when it stated that it was urging the communities to negotiate with the settlers⁵⁷.

Although the collective titled lands of the communities are inalienable, there are several judicial practices for third parties to obtain false titles, such as the creation of illegal purchase or lease contracts, or the falsification of documentation on the use of land with dates prior to the titling process, all with the objective of legitimizing the presence and claims of the settlers in protected territories. These judicial practices, which involve judges or notaries in acts of corruption, have been denounced⁵⁸ and are known by the State of Nicaragua, which admitted them before the Inter-American Court⁵⁹. However, despite the fact that the State claimed at public hearings that they have prosecuted those responsible for these irregularities, to date, it has not provided specific information to prove it nor has it taken structural measures to prevent its repetition.

In 2013, CONADETI itself warned about the need to significantly increase state resources to enforce the titles granted and emphasized the risks of violence in the face of state inactivity.

“For all the events that arise in the 21 titled territories and those that are in the process of titling, it is urgent to start the SANITATION stage, prioritizing the territories that present the greatest difficulties. Otherwise, the levels of violence in those territories will grow.”⁶⁰

Despite this official warning, the State of Nicaragua did not take any effective action to implement territorial sanitation. On the contrary, indigenous leaders have reported that, starting in 2013, there was a “massive and aggressive” occupation of titled territories by settlers.

E. Titled territories in the RAACN under threat

The communities referred to in this report are part of three Miskitu indigenous territories recognized through the process of demarcation and titling by Law 445. The territories are Wangki Li Aubra Tasbaya, Wangki Twi Tasba Raya, and Wangki Li Lamni Tasbaika Kum.

Table 4: Titled territories of the 12 communities

Resolution number	Indigenous territory	Date of resolution	Included communities
008-30-08-2009	Wangki Li Aubra Tasbaya	29/04/2009	Esperanza Río Coco; Klisnak; Naranjal; Polo Paiwas; San Jeronimo; Santa Fe; El Cocal
013-30-04-2009	Wangki Twi Tasba Raya	30/04/2010	Esperanza Río Wawa, Francia Sirpi; Santa Clara; Wisconsin
005-05-005	Wangki Li Lamni Tasbaika Kum	24/05/2005	Wiwinak

Source: Prepared by author(s)

According to data from CEJUDHCAN, these communities represent a population of approximately eight thousand inhabitants and are organized around two geographical axes, which also define their link to the territory: The Wawa River and the Coco River. The communities around the Wawa River have access by road and its main reference point is Francia Sirpi. The communities around the Coco River lack access by land and depend on the waterway. These communities have Esperanza Río Coco as their main reference point.



Table 5: Estimated population of the 12 communities of the RACCN subject to this report

Territory Wangki Li Aubra			
Community	Women	Men	Total Population
San Jerónimo	658	610	1.268
Santa Fe	334	282	616
Esperanza Río Coco	866	845	1.711
Cocal	72	65	137
Naranjal	38	43	81
Klisnak	242	280	522
Polo Paiwas	38	22	60
Total population by territory: 4.395			
Territory Wangki Twi Tasba Raya			
Community	Women	Men	Total Population
Francia Sirpi	825	979	1.264
Santa Clara	265	251	516
Esperanza Río Wawa	135	111	245
Wisconsin	238	214	452
Total population by territory: 2.477			
Territory Li Lamni			
Community	Women	Men	Total Population
Wiwinak	276	294	570
Total population by territory: 570			
Total population of the 12 communities			
Women: 3.987		Men: 3.996	
Total: 7.983 people			

Source: produced by author(s)

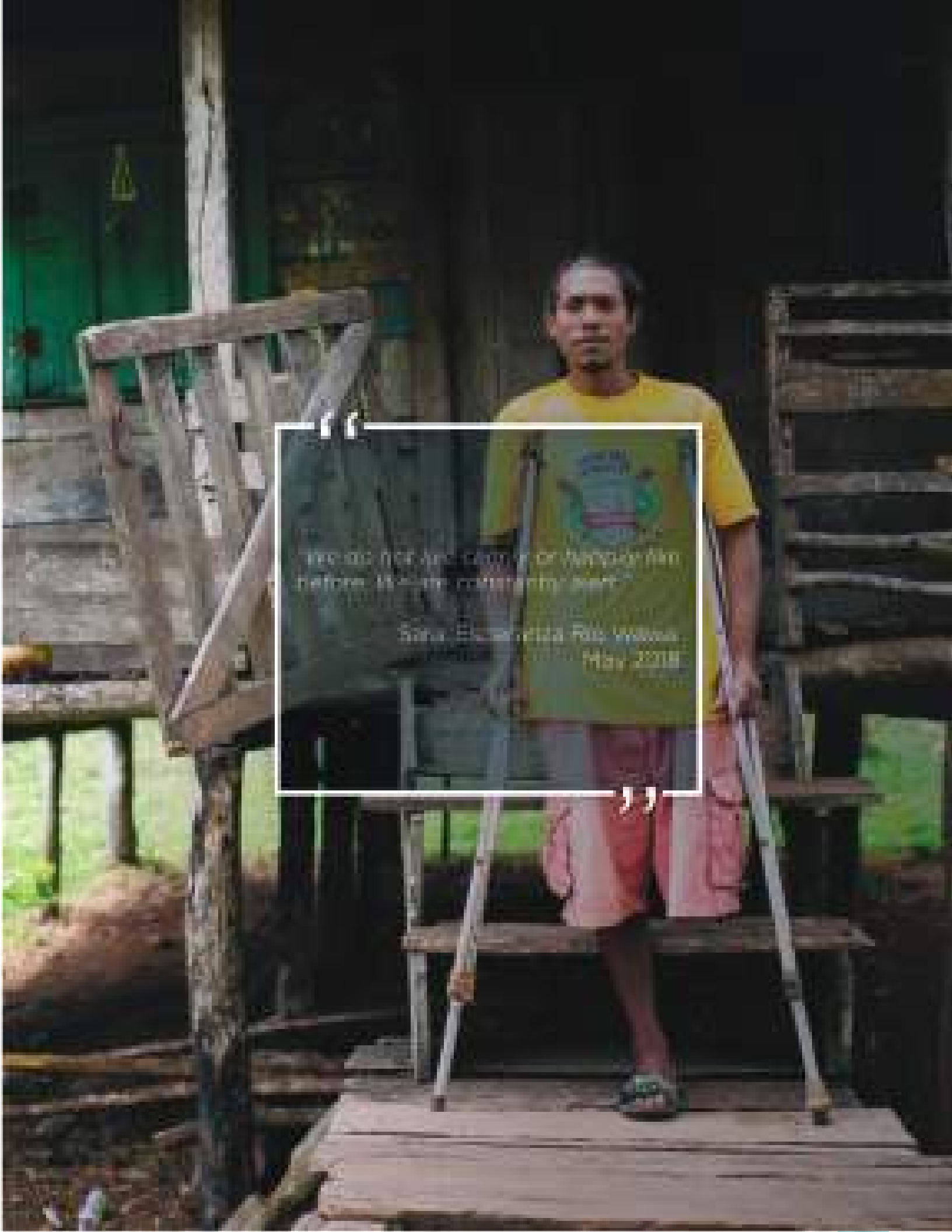
As previously stated, the official recognition of their territories has not prevented the development of illegal communities by settlers and the exploitation of their natural resources.

In 2018, at a public hearing at the Inter-American Court, CEJIL and CEJUDHCAN presented testimonies collected in the affected communities. These indicate that not only have the settlers remained in their territories, but that the settlers have expanded, and in several cases, the community members have been forced to leave their lands in the face of violence and constant threats.

3

THE OUTBREAK OF VIOLENCE





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And do not let anyone or anything
harm you. Always stay with me.

Sana, Eusebio P. M. M. M.
May 2018

A. The consequences of the invasion of settlers into indigenous territories

Since 2012, the presence of settlers in the region has led to situations of violence. Based on this, the communities and social organizations, including CEJUDHCAN, started coordinating efforts to guarantee their rights, their ways of living, and their cultural identity.

For example, a Territorial Sanitation Manual proposed a consensus with the State to carry out sanitation. However, the state authorities did not respond to the approach⁶¹. For their part, the traditional authorities of some communities contacted the settlers to ask them to leave their territories.

Correspondingly, the Miskitus organized groups of “forest guards” and community security patrols in order to protect their lands. The support of the state authorities was also requested to facilitate the departure of the invaders. However, they did not have a favorable response.



The settlers who are in the countryside cause for our community. They don't know what they're doing. They got their own land and they use their own land and they don't respect our culture. That's how the conflict has happened because of a lack of respect for a community. After this we saw we started to be intimidated from the side of the authorities. The community itself used its authority to stop and prohibit the entry of the settlers. And because of this the settlers started the conflict. They want to be so sure that the Miskito community is going to be their neighbor. And absolutely all the people of the community mention when asked that if they heard everything.

Enito, January 2018

In 2015, faced with community actions, several groups of settlers responded with the use of force to affirm and extend their presence in the indigenous territories. According to the statements from the members of the communities and the information gathered for the processing of the measures of protection before the IAHRs, these events include, among others:

• **March 2, 2015:** twenty settlers kidnapped and assaulted an elder from the community of Francia Sirpi. In addition, they burned this local leader's home.

• **May 18, 2015:** a member of the Wisconsin community was ambushed and killed, presumably by a group of 10 settlers as he made his way from his home to the family plot to work the land.

• **June 9, 2015:** a member of the community of Santa Clara was working the harvest of his family plot in the vicinity of the Esperanza community when he was kidnapped and beaten. They later released him on the condition that he would not return to his plot.

• **June 27, 2015:** six people from the community of Francia Sirpi, including a community leader, were attacked with firearms by a group of settlers. One of the community members was injured in the leg.

• **June 27, 2015:** five members of the Santa Clara community were attacked by a group of armed settlers. One of the community members was injured.

• **July 14, 2015:** forty settlers ambushed a man and woman from the community of Francia Sirpi. They demanded the man leave his position in the community. When he fought back, they hit him with the back of a gun and tried to take him by force. Then, one of the settlers opened fire, wounding the man in the chest and the woman in the leg.

• **November 20, 2015:** the community of Santa Clara received a written threat that stated: "We are going to kill with a lot of courage, we are Spanish and you all are flies [small things]."

• **December 17, 2015:** two attacks were recorded in Esperanza Río Wawa. In the first, three members of the community were kidnapped. To date, these individuals remain missing. In the second attack, two members of the community were killed.



In summation, in just the second half of 2015, there were more than 22 violent incidents against the communities. The score of these attacks was seven community members assassinated, four disappearances, and 16 wounded people, including children and adolescents⁶².

The aggressions included the destruction and theft of property in the indigenous communities, as well as widespread death threats to their members, insisting that they stop visiting and working their plots, that they give up their lands, and, above all, that they abandon any effort to claim their rights.

In the area, some local medical services treated the victims assaulted by the settlers. As such, representatives of their communities went before the National Police to report what happened. They also appealed to the military authorities who were stationed on the banks of the Coco River, requesting their support in the face of the attacks.

However, these complaints did not result in actions to protect them, prevent future attacks, or to investigate the facts.

Additionally, CEJUDHCAN reported the situation to the media and social networks to make the seriousness of the problem more visible.

Despite all these efforts, the authorities did not take any action to carry out territorial sanitation or to investigate, prosecute, and punish those responsible for the violence against the community.

This lack of response from the authorities has left the communities unprotected. In addition, it contributed to a growing distrust in government institutions.

Against this background, on October 3, 2015, CEJIL and CEJUDHCAN requested that the IACHR adopt precautionary measures in favor of the communities of Esperanza Río Wawa, Santa Clara, Wisconsin, and Francia Sirpi, in the Miskitu indigenous territory of Wangki Twi-Tasba Raya. On October 14, 2015, the IACHR granted the above mentioned measures⁶³.

Subsequently, the IACHR was asked to extend the precautionary measures in favor of the other communities to which this report refers, as well as to the members of CEJUDHCAN, obtaining a favorable decision by the Inter-American body⁶⁴.

Later, on July 20, 2016, faced with the lack of implementation of the precautionary measures granted and due to the increase in violence, both organizations requested that the IACHR increase pressure on the State through the highest court in the region. The IACHR thus requested the Inter-American Court to adopt provisional measures in favor of the beneficiary communities and the members of CEJUDHCAN.

In response, on September 1, 2016, the Inter-American Court granted the measures in favor of the indigenous communities of Klisnak, Wisconsin, Wiwinak, San Jerónimo, and Francia Sirpi, extending this protection on November 23, 2016 to the Esperanza Río Coco community; and on June 30, 2017, to the community of Esperanza Río Wawa⁶⁵; and on August 23, 2018, of two members of CEJUDHCAN.

In spite of the above, the State still has not taken measures to address the source of the danger to the beneficiary communities, that is, the lack of sanitation of the indigenous territories and the presence of settlers in them.



B. Current situation of violence

In the absence of action by authorities, the territorial invasion and threats continue. From 2016 to the end of 2018, there were three murders and more than fifteen incidents of violence, including armed attacks, kidnappings, and different forms of threats against the communities, without anyone being brought to justice. **The impunity enjoyed by those responsible is a decisive factor that favors the advancement of the settlers in the indigenous territories and the continuation of the persecution of the communities.** At the same time, the lack of trust in state institutions is reinforced, which prevents them from reporting.

Some of the events that occurred in recent years are described below:

• **March and May 2016:** the community of Francia Sirpi experienced several attacks by groups of settlers, which resulted in at least two people injured by firearms.

• **May 28, 2016:** a group of about 45 people attacked the Wisconsin community, in which three people were injured by firearms.

• **September 2017:** a woman from the Francia Sirpi community was the victim of sexual violence, presumably by a settler. When attempting to report the crime, the authorities initially refused to take the complaint.

• **November 29, 2017:** a group of settlers attacked two brothers from the Esperanza Río Wawa community. One of them was struck by two bullets, leading to his death. His brother managed to escape unharmed. A few weeks earlier, at the beginning of November, a group of about 12 settlers had threatened them while they were working on their plots.

• **December 4, 2017:** several members of the community of Esperanza Río Coco visited their plot. They were trying to plant beans when they were attacked by gunfire from a nearby area, forcing them to abandon their work and flee.

• **September and October 2018:** community members from Wisconsin and Wiwinak visited their plots to work the land, but received threatening messages, forcing them to abandon their work. A group of armed settlers informed one of the Wiwinak community members that if they found him in the area again, they would kill him and his family.

• **January 30, 2019:** seven community members of Francia Sirpi were attacked with firearms when they were harvesting their plots.

• **January 29, 2019:** settlers left a note on a plot in the Klisnak community with death threats.

• **January 15, 2019:** several community members of Esperanza Río Wawa visited their plots of land, which are located on a site known as Tuburus. Once there, they found that they had been subdivided, as were the plots of other community members.

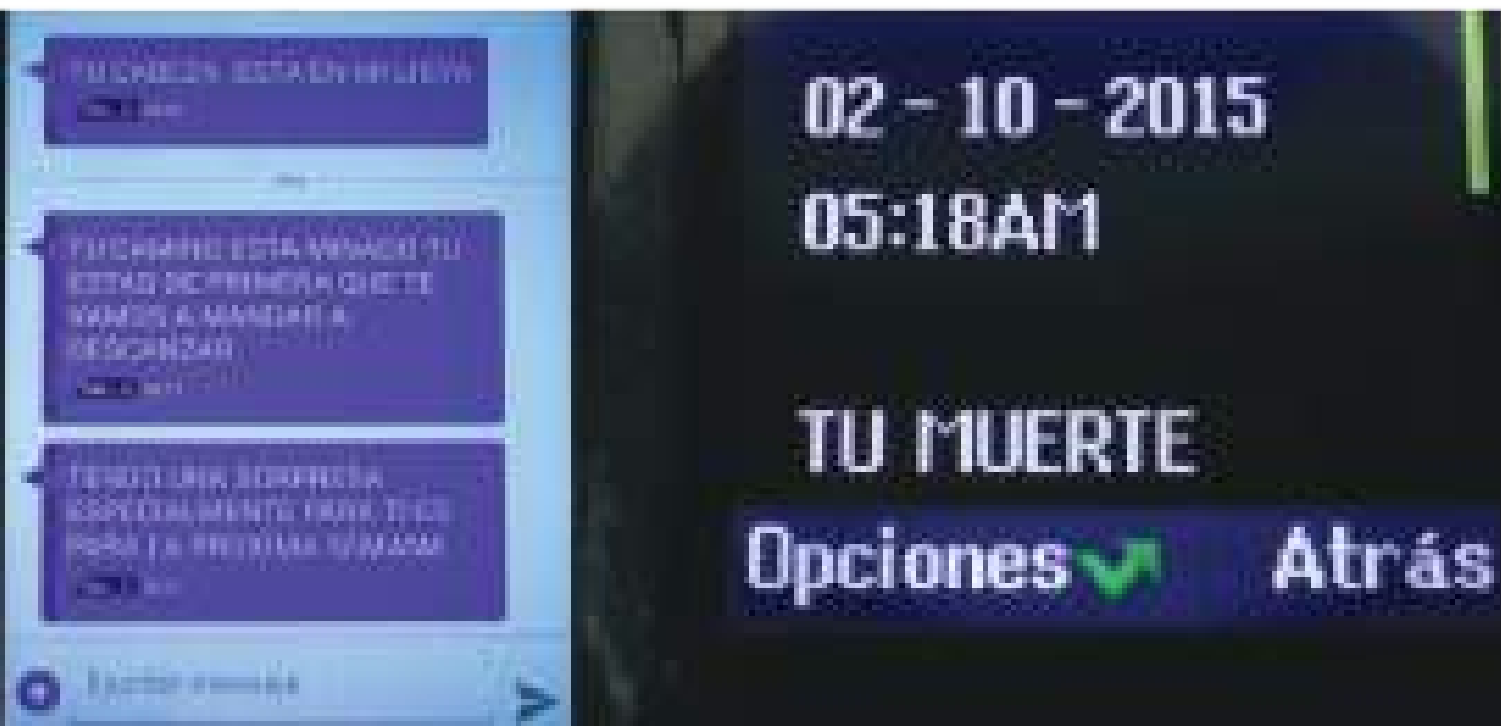
• **February 12, 2019:** a Wisconsin community member reported the presence of a path made by the settlers that reached the banks of the river in the community.

• **February 23, 2019:** two community members were kidnapped in the communal limits of Santa Clara by a group of 25 armed settlers, while they were on their way to work their plots. The community members were forced to work cleaning beans and were threatened with assault if they stopped their tasks. After five hours, they were rescued by another community member.

Although the current democratic crisis in the country is not directly related to the aforementioned acts of violence, it does have a disproportionate impact on indigenous communities, as it increases the lack of protection and abandonment that they already suffer.

As highlighted in the introduction to this report, there is no institutional framework in Nicaragua capable of guaranteeing human rights. The politicization of institutions such as the Public Ministry and the Judiciary is evident and worrisome⁶⁶. For affected communities, this government does not exist or has turned a blind eye to the violence that afflicts them.

Registro de amenazas contra la población Miskitu



C. Systematic and Organized violence for a specific end

The violence that erupted in 2015 is neither accidental nor random. The settlers use it as a tool to vindicate their presence and extend their control over the Miskitu territory. There are some common elements that show the existence of a criminal organization:

a) Preparación, organización, recursos y estructura de grupos de ataque

According to the testimonies of victims and survivors, groups of several dozens of men have been observed, especially when the population centers of the communities have been attacked; in some cases, they reached up to 60 people. These groups carry weapons that appear to be reserved for military use.



“They came toward with their ammunition, and were afraid of them. Since we did not have weapons, how are you going to respond, a powder against a soldier, they came with the military men. They always enter with very advanced weapons.”

Alfredo Santa Clara, January, 2018.



"They are afraid of their neighbors, of the police, of the army, and of their neighbors."

— Santa Clara, May 2015

Another element that shows the capacity of organization is the frequency and coordination with which they carried out the attacks in certain places. Such is the case of the neighboring communities of Francia Sirpi, Wisconsin, and Santa Clara, which during the months of June and July 2015, suffered at least four attacks, in some cases with the participation of up to 40 people. Also, between October and December 2015, the community of Polo Paiwas was attacked twice. Witnesses reported the presence of approximately 50 armed people who threatened and assaulted the residents by burning homes and common use buildings, such as the church, as well as killing livestock.

In December 2015, armed settlers entered Esperanza Río Wawa simultaneously through different zones. Also, several community testimonies indicate that, on at least two occasions, an armed group of settlers developed successive attacks in a span of hours against the communities of Santa Clara and Esperanza Río Wawa in September of that same year.

In addition, several of the attacks occurred at times of reduced natural light, such as dawn or dusk, when the surprise factor favors the attackers. This happened in the attacks of 2015 in Santa Fe in August, Santa Clara and Polo Paiwas in October and December, and in Esperanza Río Wawa and Wisconsin in December.

Finally, several testimonies of victims and survivors reveal the existence of people who directed the attacks that occurred in 2015⁶⁷.

b) The lethal nature of the violence

Another distinctive component of the violence is its lethal character, which became evident in 2015, as illustrated by the following elements:

- **Location of injuries:** some of the fatalities presented numerous bullet wounds, including in vital areas such as the head and torso⁶⁸.
- **The cruelty:** several of the murdered victims' corpses were displayed to send a message of terror to the communities. A 55-year-old community member from the Esperanza Río Coco community was killed in September 2015. According to witnesses, the body was discovered with bullet wounds and signs that he was also hanged. Additionally, when they found him, his body was dismembered⁶⁹.

In August 2016, two community members of Esperanza Río Coco were kidnapped and their bodies found 10 days later, dismembered and decapitated. The military authorities deployed in the area had rejected the community's request to support the search for the victims⁷⁰.

The lethal nature of the violence is compounded by the serious threats that have been conferred to intimidate the communities. On August 17, 2015, a group of settlers held hostage a community member of Santa Fe. Before he was released, they forced him to pass the message that “[the settlers] did not mess around and if possible, they would kill every last Miskitu.” In October 2015, the Wisconsin community received a letter warning them they would have a “red Christmas”. Subsequently, in September 2017, the same community received two new threatening letters⁷¹.

These and other similar messages have served to strike terror within the Miskitu communities and thus provoke their displacement, limit the ability of families to sustain themselves in their territories, and weaken their resistance to the invading groups.

As a whole, these practices demonstrate the systematic and organized nature of the groups of settlers and their objective to deprive the Miskitu communities of their lands, in addition to destroying their culture and way of life. The modus operandi of these armed groups makes it impossible for the State of Nicaragua to try to minimize the violence or to argue that it is accidental or isolated.

They were motivated because there is a community mother up there a little bit like we called her Amma. That is the community that will always be successful. And since we are close and because of that, Amma is the one who will see another young man who had 1990s and 2000s. The students were coming very close, all the people had to make every last minute on the way up to see their girls.

Grace M. Kibet, January 2018

D. Forced displacement or restricted land use

Since 2015, the forced displacement of thousands of inhabitants of the communities, motivated by the violence provoked by the settlers, has had a dramatic impact on the Miskitu culture and on the life of the communities.

The displacement had two dynamics: i) the displacement of populations from communities or their traditional territories, in search of immediate refuge from attacks and threats; and ii) an external displacement, outside the zones of influence of the communities and towards the urban areas such as Puerto Cabezas and Waspam, as well as towards the Honduran territory bordering Nicaragua.

At first, it was the women and children who fled their homes to survive the attacks. They did not have a plan: in some cases, they moved to neighboring communities; in others, when they did not find a destination, they stayed in the countryside, sleeping overnight in the open air.





When we started our work on the island we focused on the community. The working women in community and health care went to the island every 1-2 weeks and with the sisters of Friday, we returned to the community. We looked for what we could learn from our house and we went to San Francisco.

Electoral Experiences Rio Wauja, May 2018



“When you’ve got to take their personal belongings, they did not take their things with them because they did not know they were going to put their community. The animals that were there about 35 cows, 10 calves, 10 goats, 10 pigs, they were everything.”

—Anon. Interview—May 2011

Initially, some men from the communities stayed behind to try to protect their assets. However, it was not always possible, as in 2015, when the attacks caused the total destruction of the Polo Paiwas community where 14 families resided.

According to the data provided by CEJUDHCAN, due to the violence, more than three thousand people moved to nearby communities, mainly in Honduras, such as Suhí, Pranza and Rus Rus, and others moved to Puerto Cabezas⁷². Overall, the number of displaced persons represents more than 35 percent of the population of the 12 communities that are the focus of this report.

However, the State of Nicaragua did not adopt specific measures to address the humanitarian situation and it was the social organizations and churches that tried to provide temporary conditions for the displaced persons in Puerto Cabezas. The precariousness of life in urban centers exposed the displaced, particularly young children and adolescents, to serious risks, mainly in health matters.

The displacement also affected access to education because at least during the first year, children could not attend school. In some cases, they found themselves in need of income to support their families, forcing them to work.

For example, according to the testimony of one displaced person in Puerto Cabezas, her 12-year-old daughter had to work as a domestic worker in a private home, where she was subjected to attempted sexual abuse by a relative of her employers.



We did not have a house of our own where we could stay and we sold the houses of the community members in the city of Jinotega for six months. There were many effects on the health of my children and grandchildren, who suffered a variety of such as pneumonia, diarrhea, and malnutrition.

FEBRUARY 2015



Some of the people who took refuge in larger urban centers found lodging with relatives or other individuals, but most of them lived in temporary camps where they received some kind of timely help from a Honduran agency for the contingency of natural disasters and several international cooperation agencies.

Table 6: Displaced population of the 12 communities

Communities	Total population	Displaced women	Displaced mens	Total displaced persons
Territorio Wangki Twi Tasba Raya (Francia Sirpi, Santa Clara, Esperanza Rio, Wisconsin)	3.018	350	279	629
Territorio Li aubra (San Geronimo, Santa Fe, Esperanza Rio Coco, Polo Paiwas, Naranjal, Klisnak, Cocal)	6.599	N/D	N/D	2.151
Territorio Lilamni Tasbaika Kum (Wiwinak)	1.200	N/D	N/D	228
Total:	10.817			3.008

Source: Information compiled by CEJUDHCAN during their visits to the communities and in interviews with displaced persons.

A woman in a white long-sleeved shirt is measuring the height of a young boy. The woman's shirt has the text "BY INAMBÁ" and "MANEJAMENTO TERRITORIAL" printed on it. The boy is wearing a dark t-shirt. In the background, other people are visible, including a man in a white polo shirt and a woman in a white tank top. The scene appears to be an outdoor community event.

"When the Weyampi (Government) went to Saly, most families left and only the men stayed. I did not take anything. My eight children came with me. We spent almost two years there. I did not have a house. I lived in someone else's house. I had no food and had diarrhoea. My children were pot-bellied."

Catalina Espescenta Rio-Good
May 2018




In the town that I have been told, I have lived in the houses of four different strangers and in all of them, I met accidents. Sometimes they did not feel like they had to come and help me and that hurt me a lot because at the time, my children had never eaten food.

Rosa Esperanza B. Gans
May 2018

“The school, health and community center provided a safe space. The community shared their needs, men carried the heavy workload, the community organized work on land and animals. The lack of labor and need for materials led to the church men going to support the community.”

Valentina, Esperanza Rio Chico
May 2018



“I was out of my community for two years. But I had to return because in the neighboring community they did not want to accept us. Because we obtained permits and licenses just as they did. They shared with us but there came a time when it was not enough and people had to come back here again. We suffered from malaria, dengue fever, and other things.”

—Ghazala, Kisumu,
January and May 2018

Those who stayed in the communities near their land initially had some support from the residents of the places they went to, but their integration into host communities was complicated because they did not have land or housing, and the community did not have enough food to support its own inhabitants, much less the displaced people.

For most families, this situation of displacement continued for about two years. In 2017, a large number of people began to return to their communities of origin. According to testimonies collected by CEJIL, the decision to return frequently corresponded to the precariousness and scarcity they faced in the host communities.

In the visits carried out jointly by CEJIL and CEJUDHCAN at the beginning of 2018, it was possible to verify that, in fact, some people had returned to their communities of origin and were trying to normalize their lives. For example, in the Klisnak community, the health center and the school were functioning, albeit precariously.

During these visits, many people who were displaced by force were also interviewed. In both cases, it was evident that violence and impunity continued to cause serious consequences for the Miskitu communities and violate their rights in many aspects, particularly the right to adequate food.



Community members will be asked to help identify and document the current and potential uses of the site.

David Espinoza, Red Wings, May 2018

E. A silent food crisis

The economy of the Miskitu communities is based on the generation of food and goods for self-consumption as a result of various activities such as farming, hunting, fishing, and, in some cases, traditional mining activities. Unfortunately, violence against communities has impacted their food security, due to the loss of control over productive assets in their territories.

According to the testimony of some community members, the attacks by the settlers on different occasions involved the destruction of plots and crops as well as the theft of animals, creating a serious impact on the health of the families and their capacity for self-sufficiency, as occurred during the attacks on the Polo Paiwas community in 2015⁷³.

Furthermore, the continued insecurity provoked by settlers in the Miskitu territories not only deliberately restricts the possibility for families to access their means of production, but also to practice their culture. This limitation is a threat to the very subsistence of the communities, increasing their poverty and marginalization.






“

“They used to fish in the river, but settlers are contaminating it. They have landing grounds and cut down wood, which affects the communities.”

—Andrino Franco Sep, May 2018

”

A close-up photograph of a person's hand holding several small, round, yellowish-orange fruits, possibly cherry tomatoes, against a background of green foliage. The person is wearing a light green shirt and a colorful, patterned skirt. A semi-transparent text box is overlaid on the center of the image.

Since 2017, the community members do not go to the plots. They have made gardens in backyard and community lands that are not fertile. The soil is good to use, but when they approach their plots.

(Esteban, Santa Cruz, May 2011)



Production has increased because
they always go to the plots. There is a
culture of sweat for growing food.

James Kihiriki, May 2019



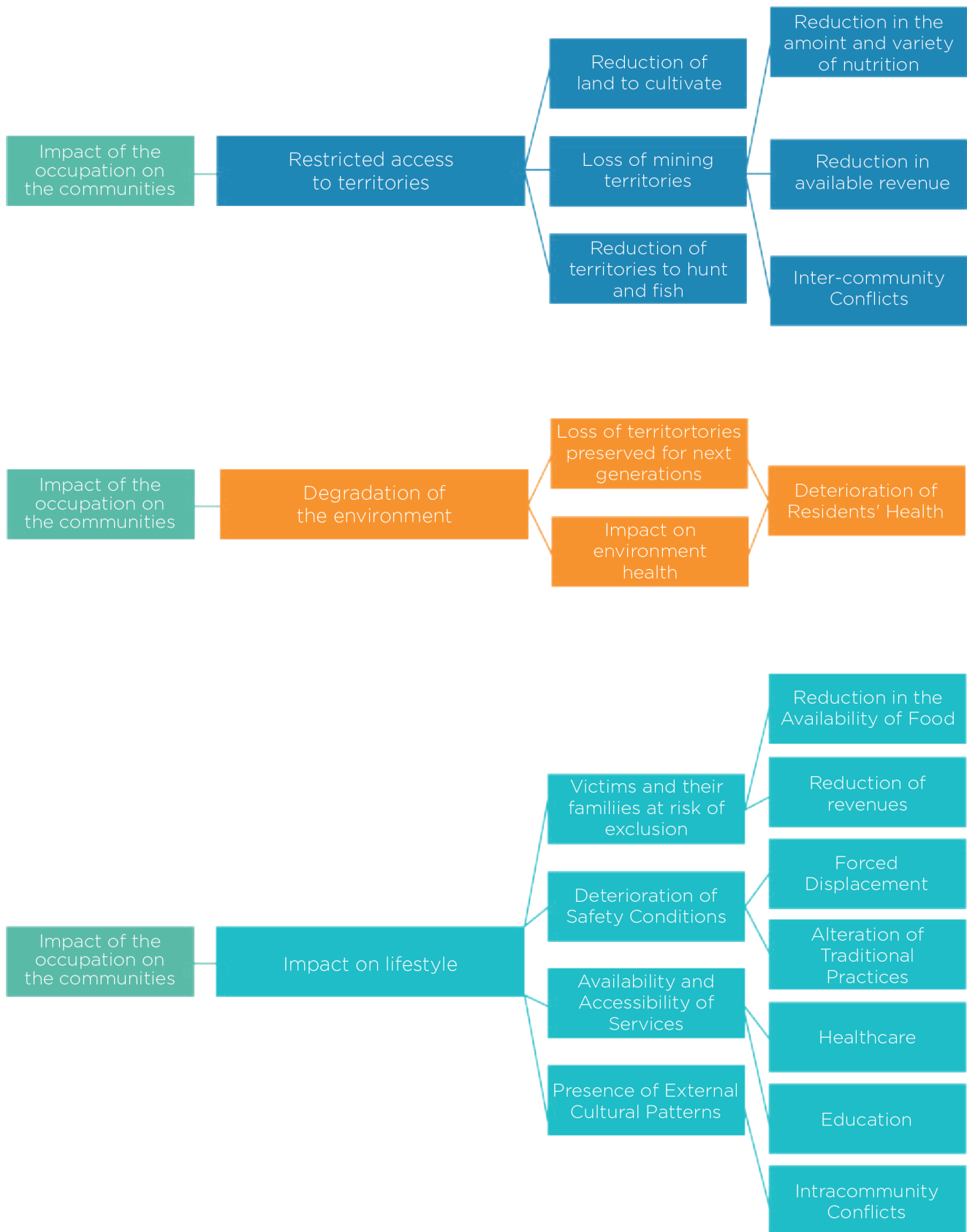
Additionally, for many families who remain in their communities or have returned temporarily, the lands fertile for cultivation or hunting, that are located far from their settlements, are no longer accessible. In part, this is due to the overexploitation of resources by the settlers, hurting the environment and the environmental balance zealously obtained by the communities.

The latest threats show the persistent risk to the communities, which has forced them to cultivate less fertile lands that are located on their borders or within them, to avoid moving through their invaded territories.

In addition to this situation, CEJIL and CEJUDHCAN were able to verify that, even when displaced persons have managed to settle permanently in new communities, they frequently experience additional shortcomings in their housing conditions, production capacities, and health. It is also common for these people to work on borrowed land to obtain their food, usually close to the communities and, therefore, less productive. All of the above limits their chances of developing a dignified life with the full enjoyment of their rights.

The following table summarizes the various impacts on the rights of the Miskitu communities, in particular the right to adequate food, caused by the increasingly consolidated presence of groups of settlers in their territories.

Table 7: Impacts of violence on the rights of indigenous communities



She started her own business and to
the community and to the world. She
is a woman who is not afraid to
take risks and to try new things.
She is a woman who is always
looking for ways to improve her life
and the lives of others.

Thank you for your support.

33

F. Malnutrition and groups in situations of vulnerability in the communities

It should be noted that women, children, adolescents, and older adults represent groups that are more vulnerable and whose displacement generates a different impact. For example, in March 2017, a six-month-old boy died due to lack of medication and food when his family returned to Esperanza Río Wawa, after having been forced to leave previously due to violence⁷⁴.

This impact can also be observed in malnutrition figures. In the absence of official data, in May 2018, CEJIL and CEJUDHCAN developed a sampling of weight and height of 92 girls and boys between the ages 0 and 5 years in the communities of Francia Sirpi, Esperanza Wawa, Santa Clara, and Klisnak. The following table shows the results of chronic and acute malnutrition, which are much higher than the national average and the RACCN region.

Tabla 8: Sampling of child malnutrition in Miskitu communities

Affected population	National average	RACCN average	Francia Sirpi	Esperanza Río Wawa	Santa Clara	Klisnak
Children with chronic malnutrition	Total: 17,3% Severe: 4,9%	Total: 23% Severe: 11%	Total: 32% Severe: 12,5%	Total: 46% Severe: 23%	Total: 42% Severe: 29,1%	Total: 30% Severe: 17%
Children with global malnutrition (acute)	Total: 5% Severe: 0,9%	Total: 5,9% Severe: 1,2%	Total: 5% Severe: 0%	Total: 23% Severe: 14,2%	Total: 8,3% Severe: 8,3%	Total: 13% Severe: 0%

Source: Prepared by CEJIL from 92 samples collected. The data was analyzed according to the child development parameters proposed by the WHO and the analysis methodology in terms of chronic and acute malnutrition⁸⁰.

This data suggests a reality consistent with the limitation in access to productive resources, which confirms the testimonies received. This situation is far from the apparent normality and institutional support that the State has referred to before the Inter-American Court. The fact that Esperanza Río Wawa and Santa Clara, communities particularly affected by violence and forced displacement, show differences in the data with respect to the other communities, is also consistent with the information uncovered by this investigation. The data from this sample makes evident the need to take urgent measures to address the nutritional and food crisis that is affecting the Miskitu communities, in particular, the most vulnerable groups.

G. Defenders of human rights under attack

The human rights organization CEJUDHCAN assists the Miskitu and Afro-descendant communities in the exercise of their rights, in particular to achieve the titling and sanitation of their collective lands so that these communities may live in peace and develop their culture and identity. The organization is based in Puerto Cabezas, but constantly moves between the different territories where the communities are located. **Those who work in CEJUDHCAN are also Miskitu indigenous people who have supported the communities in making this problem more visible and elevate their voice before national authorities and international bodies**, particularly in the Inter-American system. This work of defending human rights has had serious repercussions for the members of CEJUDHCAN.

Due to the increasing tensions in the region caused by the invasions of settlers, the failure of the authorities to comply with Law 445 to achieve land sanitation, and the growing insecurity affecting indigenous communities, CEJUDHCAN began to publicly denounce the situation. In response, since May 2014, state authorities began a campaign of delegitimization and harassment, declaring the organization as “non grata (unwelcome) in activities promoted by the government party”⁷⁷.

When the violence broke out in 2015, members of the organization began receiving death threats via text messages on their cell phones. These included the phrases: “your head is on my list” (sic); “Leave the settlers in peace, stop denouncing on television, you’re already on my list sincerely los nicas [Nicaraguans]” (sic); “Look for your black clothes because I have a surprise for you, one of your little heads will get a bullet, sincerely los nica” (sic); “Your death is near: sincerely los nica” (sic) and “All that you can expect from us is bullets” (sic).

In addition, on a television program, a regional political leader of the government accused CEJUDHCAN of profiting from the crisis in the region and instigating violence. It also accused the organization of providing weapons and bullets to indigenous communities. Similarly, even government authorities have publicly discredited the work of the organization’s defenders⁷⁸.

Due to the constant threats against members of CEJUDHCAN, in August 2016 the IACHR extended the precautionary measures to include protection of the organization. Even so, the Nicaraguan authorities maintained the same position of silence before the Commission.

In 2018, the president of CEJUDHCAN and another member of the organization were subject to unfounded accusations by state officials and smear campaigns on social media networks. Consequently, at the request of the IACHR, the Inter-American Court extended the provisional measures in the case and ordered the State of Nicaragua to protect the integrity of both human rights defenders⁷⁹. Regrettably, the State has not complied with the ordered measures by the court.

The acts of harassment have even impacted members of CEJIL. In the May 2018 visit to the communities, messages circulated on social media networks that reported the presence of CEJIL and alleged the amounts of money they carried, placing them at risk of attacks. Likewise, the State itself has impeded CEJIL’s accompaniment by preventing the entry of officials of the organization into the country⁸⁰.

It is noteworthy that the exposed risk has increased given the current context of the crisis, where defense of human rights is being criminalized and hundreds of defenders have been forced to leave the country. Others have been deprived of their freedom, and at least a dozen human rights organizations have been stripped of their legal status⁸¹.

For the members of CEJUDHCAN, exercising their right to defend human rights has meant that their lives are seriously affected by threats and persecution. Additionally, what is particularly serious is the defenselessness which the communities are left in when the assistance that this organization has historically given is restricted.



4

NICARAGUA AND ITS INTERNATIONAL OBLIGATIONS IN THE FIELD OF HUMAN RIGHTS



Throughout this report, it has been demonstrated that the State of Nicaragua has disrespected its international obligations regarding indigenous peoples; guarantees of access to justice and the obligation to investigate, prosecute, and punish all persons responsible for the acts of violence described; and the rights of human rights defenders. Next, we will refer to such obligations in the order mentioned.

A. International obligations regarding indigenous peoples

As the Inter-American Court has pointed out, indigenous peoples have a close relationship with the land that “must be recognized and understood as the fundamental basis of their culture, spiritual life, integrity, economic survival, and its preservation and transmission to future generations”⁸².

The relationship with the land transcends the historically dominant conceptions of the right to property. For example, indigenous peoples have a **“close relationship with their traditional territories and the resources found there, not only because they are their main sources of subsistence, but also because they constitute an integral element of their worldview, religion and, therefore, of their cultural identity”**⁸³.

This conception was reaffirmed in 1989 by the member states of the ILO, including Nicaragua, in the adoption of ILO Convention 169 on Indigenous and Tribal Peoples, which recognizes in Article 13 “the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship”⁸⁴.

In light of the above, States have the obligation to adopt the necessary measures to guarantee the territorial integrity and cultural identity of the indigenous peoples, through the protection of the use and enjoyment of their traditional territory⁸⁵.

As such, since 2001 in its first sentence about indigenous peoples, *Mayagna Community (Sumo) Awas Tingni vs. Nicaragua*, the Inter-American Court has indicated to the Nicaraguan State that it is necessary to adopt a series of measures to guarantee the territorial integrity of its indigenous peoples. In that sense, the State was ordered to measure, demarcate, and title its territories⁸⁶.

Subsequently, in 2016, within the framework of the provisional measures regarding the Miskitu communities, the Inter-American Court reminded the Nicaraguan State that sanitation is part of the necessary measures to guarantee the integrity of the territories of the indigenous peoples⁸⁷.

The importance of this obligation cannot be understood in its entirety if it is not kept in mind that the lack of protection of the territories can have an impact on the life and integrity of the communities. In this regard, the Inter-American Court has been emphatic in pointing out:

“One of the obligations that the State must inescapably assume in its position as guarantor, with the aim of protecting and guaranteeing the right to life, is to produce the minimum living conditions compatible with the dignity of the human person and not produce conditions that hinder or prevent it. In this sense, the State has the duty to adopt positive, concrete and oriented measures to the satisfaction of the right to a dignified life, especially when dealing with people in situations of vulnerability and risk, whose attention becomes a priority”⁸⁸.

Based on this, the Court recognized that the lack of protection of the territories may lead the indigenous peoples to a situation of particular vulnerability that may affect their way of life and life plans, in both the collective and individual dimensions⁸⁹. Such a lack of protection can lead to violations of their rights to health, to food, to a healthy environment, to education, and to the benefits of culture, among others⁹⁰.

Sometimes, these violations are intersected by the phenomenon of displacement, which, according to the Inter-American Court, due to its complexity

“(...) and the wide range of human rights that it affects or puts at risk, and in response to the circumstances of particular vulnerability and defenselessness in which the displaced are generally situated, their situation can be understood as a de facto condition of lack of protection”⁹¹.

In this way, faced with the existence of displacement scenarios, States are obliged to adopt measures that reverse the effects of their vulnerable conditions and defenselessness, even in the face of actions by third parties⁹².

In accordance with these standards, in 2015, the United Nations Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli-Corpuz, referenced the grave situation faced by the Miskitu communities, following the invasion of settlers into the territories and the lack of response from Nicaragua to protect their rights. The rapporteur pointed out that the “roots of this tension [...] lie, precisely, in the lack of a real and effective process of sanitation of indigenous territories”⁹³. She also expressed concern about the large number of displaced people who have taken refuge in the towns of Bilwi and Waspan, as well as in neighboring Honduras⁹⁴.

Tauli-Corpuz called on the Nicaraguan authorities to immediately establish a dialogue mechanism with the communities to agree on a long-term solution to the situation and initiate the sanitation process to which they committed, prioritizing the territories in conflict, and to proceed with the transfer of the settlers to their places of origin or to their relocation elsewhere⁹⁵.

In the same sense, when the Inter-American Court adopted provisional measures in favor of the Miskitu communities in September 2016, it ordered Nicaragua to establish a participatory body that would gather the available information on the conflict in the shortest time possible, which would diagnose the sources of the conflict and propose possible solutions and paths to peace⁹⁶. Unfortunately, as noted in this report, Nicaragua has not complied.

After the ruling issued in the Mayagna Community (Sumo) Awas Tingni v. Nicaragua case, there was important progress in the process of demarcation and titling of the territories of indigenous peoples with the creation of Law No. 445. Nevertheless, the sanitation stage that involved resolving conflicts with settlers and thereby “guaranteeing the effective use and enjoyment of the right to indigenous property”⁹⁷ was never carried out.

In this way, the lack of effective sanitation of the Miskitu territories has caused a severe deterioration of the situation in the communities of the RACCN.

In view of the inaction from state authorities since the demarcation and titling process began in 2005, the conflict between indigenous peoples and settlers worsened, to the point that the IACHR and the Inter-American Court had to adopt the aforementioned measures of protection.

In addition, such inaction has had devastating effects on the rights of indigenous peoples over their territories, with a direct impact on their rights to a dignified life, integrity, health, food, water, a healthy environment, and benefits of culture has been demonstrated throughout this report.

As time passes, the settlers –as tolerated by State– move forward in occupying ancestral territories, as well as in the extraction of their natural assets. This has seriously impacted the ways of life of the communities and has led to the forced displacement of many of them, resulting in the violations of their human rights.

Consequently, the need for the Nicaraguan State to comply with its international obligations regarding the rights of indigenous peoples has become particularly urgent, and the demand of the affected peoples in this regard has been constant.



B. Obligations regarding access to justice and investigation of serious human rights violations

Moreover, as described in this report, members of the Miskitu people have suffered from organized and deliberate violence of settlers, which has led to assassinations, kidnappings, rape, physical attacks, and death threats. In accordance with international law, Nicaragua has the obligation to investigate these events and punish those responsible.

In this regard, the IACHR has indicated that the State is obliged to guarantee effective judicial remedies to victims of human rights violations and, in light of the right of access to justice, must ensure, within a reasonable time, the right to the victims or their relatives to do everything necessary to know the truth of what happened and investigate, prosecute, and, where appropriate, punish those responsible⁹⁸. Such investigations must be carried out in light of the principle of due diligence⁹⁹.

Despite its international obligations, the Nicaraguan government has refused to investigate the violence faced by the indigenous communities and the serious violations of human rights to which they have been subjected. As it has been pointed out, none of the events described throughout this report have been investigated, much less has anyone been identified and a judgment made against the responsible material and intellectual perpetrators.

It should be remembered that impunity not only violates victims' access to justice, but also guarantees the conditions for the repetition of events.



C. Obligations regarding the protection of human rights defenders and their right to defend rights

Given the serious situation faced by human rights defenders in Nicaragua, in particular people linked to the defense of the rights of indigenous peoples¹⁰⁰, in 2017 the Inter-American Court ordered Nicaragua to create a protection mechanism and an investigation protocol for cases of situations of risks, threats, and aggressions¹⁰¹. This is because States have a reinforced responsibility when it comes to guaranteeing the rights to life and personal integrity of those who exercise this role¹⁰².

In this regard, the Court reminded Nicaragua that “the defense of human rights can only be exercised freely when the persons who carry it out are not victims of threats or any type of physical, mental, or moral aggression, or other acts of harassment”¹⁰³. To this end, the state must provide the necessary means to protect them if they are at risk or if they report violations of human rights, as well as investigate the violations committed against them, thereby combating impunity¹⁰⁴.

However, Nicaragua’s response to the threats and harassment suffered by the members of CEJUDHCAN has been completely inactive. In fact, as has been pointed out before, the threats have emanated to a large extent from senior state officials, a fact that is widely known. Despite this, no investigation or implementation of any protection measure has been carried out thus far. The situation of risk for the members of CEJUDHCAN has only intensified since April 2018, when the national crisis in Nicaragua began, indicated by the commission of serious human rights violations against those who oppose the government.

In sum, the lack of state action in the face of the acts of violence described, shows that Nicaragua has not complied with its international obligations regarding the rights of indigenous peoples and the people who defend them.

5

CONCLUSIONS AND RECOMMENDATIONS



The situation of violence, impunity, abandonment, and exclusion facing the Miskitu indigenous communities is not new. It is rather the result of the absence of public policies aimed at fully guaranteeing the rights of indigenous peoples, as well as the tolerance from the authorities in the face of the criminal acts of invading settlers.

State actions and omissions have put the survival of these peoples and their rights to cultural identity and a dignified life at risk, among others things.

Although this situation is not directly related to the current democratic crisis, we cannot lose sight of the fact that the demonstrated lack of institutionalism, as well as the authoritarianism that characterizes the current government, particularly affects historically excluded groups. The current crisis deserves the full attention of the international community, as well as the situation that these communities continue to face.

The facts described in the previous sections allow us to conclude that in Nicaragua, the institutions have been at the very least silent regarding the Caribbean coast of the country. The lack of response from the State has placed the region in circumstances of particular vulnerability and defenselessness, in the face of increasing pressures from the various actors who have invaded and violently stripped the communities of their territories.

For these reasons, it is essential that international organizations for the protection of human rights carry out a strict and permanent monitoring of the grave situation facing the indigenous peoples. It is crucial that they, as well as the international community as a whole, influence the Nicaraguan authorities so that the authorities fulfill their obligations towards the indigenous peoples and those who have assumed the task of defending them.

In particular, the Inter-American Commission and Court of Human Rights must insist on compliance with the protection measures granted to guarantee the life and physical integrity of the people that make up the beneficiary communities.

Likewise, the different instances of the Universal System for the Protection of Human Rights - the United Nations High Commissioner for Human Rights, the different rapporteurships on human rights, and the Human Rights Council, among others - must exercise all their duties, safeguarded in their respective mandates, to demand that Nicaragua implements all the necessary measures to guarantee the effective enjoyment of the rights of indigenous peoples over their territories.

In particular, it is essential that different institutions require the State of Nicaragua to:

1. Immediately implement the measures ordered by the IACHR and the Inter-American Court. In particular, these measures must correspond to an authority or agency that can identify the sources of conflict and propose solutions. This must be established and advanced in coordination with the communities and their representatives before the Inter-American System.
2. Collect and publish disaggregated information on the socioeconomic conditions of the indigenous and Afro-descendant communities of the RAACN to guide public policies that guarantee the full enjoyment of their human rights. públicas que permitan garantizar el pleno goce de sus derechos humanos.

3. Begin the process of sanitation of the indigenous territories, prioritizing the territories in conflict, in order to proceed with the transfer of settlers to their places of origin or their relocation elsewhere, in accordance with the provisions of Law 445.
4. Adopt all measures necessary to ensure the return of displaced families to their communities of origin and ensure their immediate access to adequate services to exercise their rights to health, education, potable water, food, and housing, among others.
5. Investigate thoroughly and impartially all allegations of human rights violations committed against the Miskitu communities, including threats, killings, injuries, abductions, and sexual violence, publicize the results, and bring to justice the material and intellectual perpetrators of these serious actions.
6. Implement the protection measures ordered by the IAHRS so that human rights defenders of indigenous peoples can continue with their work, and bring to justice the responsible material and intellectual perpetrators of the threats and harassment against them.
7. Establish in agreement with the communities affected, the presence of public security forces and other State services in the Miskitu territories, so that they can carry out their subsistence activities such as planting, fishing, and hunting in safe conditions.
8. Develop a protection mechanism and protocol of investigation for cases of situations of risk, threats, and aggressions against human rights defenders, which take into account the risks inherent to such activity and lead to the determination and eventual punishment of those responsible, and that the punishment is adequate. This is in compliance with the sentence handed down by the Inter-American Court in the case of Acosta et al. v. Nicaragua.
9. Order all public officials to refrain from discrediting the work of CEJUDHCAN and its members, and instead recognize their work as legitimate.
10. Permit members of CEJIL access to Nicaragua to continue carrying out the necessary assistance in the defense of the rights of the affected communities. It is hoped that this report will help underscore the serious situation that the Miskitu communities continue to face on the Caribbean coast of Nicaragua.

CEJIL reaffirms its commitment to the indigenous peoples and to all the people who have bravely and ardently assumed and raised the banner in the defense of their rights. Until Nicaragua fulfills its international obligations and guarantees and respects the human rights of its people without any discrimination, CEJIL will continue to provide an echo to the voices that the State of Nicaragua has not wanted to listen to.

REFERENCE

- ¹ See CEJIL, “Nicaragua: how was it institutionally reformed to concentrate power?” (Only in Spanish), 2017. Available at: <https://www.cejil.org/en/nicaragua-how-was-institutionality-reformed-concentrate-power-only-spanish>.
- ² IACHR, “IACHR warns of new wave of repression in Nicaragua”, October 18, 2018. Available at http://www.oas.org/en/iachr/media_center/PReleases/2018/223.asp.
- ³ In order to guarantee their safety, the names of the Miskitu people who were interviewed as part of this investigation have been changed to protect their identities.
- ⁴ Political Constitution of the Republic of Nicaragua, approved November 19, 1986, as amended in 1990, 1995, and 2000. Published in La Gaceta, Official Journal No. 5 January 9, 1987; Statute of the Autonomy of the Regions of the Atlantic Coast of Nicaragua, September 7, 1987; Law on the Regime of Communal Property of the Indigenous Peoples and Ethnic Communities of the Autonomous Regions of the Atlantic Coast of Nicaragua and the Rivers of Bocay, Coco, Indio and Maiz, approved December 13, 2012.
- ⁵ Idem.
- ⁶ Namely: El Cocal, Naranjal, Polo Paiwas, Santa Clara, Santa Fe, Esperanza Río Coco, Esperanza Río Wawa, Francia Sirpi, Klisnak, San Jerónimo, Wisconsin y Wiwinak.
- ⁷ See IACHR, Resolution 37/15 MC-505-15, Matter of Miskitu Indigenous People of Wangki Twi-Tasba Raya in reference to Nicaragua, October 14, 2015. Available at (Spanish Only): <http://www.oas.org/es/cidh/decisiones/pdf/2015/MC505-15-ES.pdf>.
- ⁸ The communities benefitting from provisional measures are: Esperanza Río Coco, Esperanza Río Wawa, Sirpi France, Klisnak, San Jerónimo, Wisconsin, and Wiwinak.
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- ⁵⁶ These facts are confirmed in recorded videos of State authorities calling meetings with traditional authorities in which they promote these positions. Likewise, several of the interviewees from the communities during the 2018 visits gave testimony of pressure from officials to accept the presence of settlers in their territories.

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- ⁸⁰ This occurred in October 2018 when three members of CEJIL were prevented from entering Nicaragua, and were sent back to Costa Rica from Augusto C. Sandino International Airport in Managua. Likewise, another lawyer was prohibited from entering in November of that same year, which prevented his participation in a meeting related to the application of the protection measures. See: <https://www.cejil.org/en/government-arbitrarily-prevents-cejil-entering-nicaragua>.
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Index of abbreviations

CEJIL	Center for Justice and International Law
CEJUDHCAN	Center for Justice and Human Rights of the Atlantic Coast of Nicaragua
IACHR	Inter-American Commission on Human Rights
CIDT	Intersectoral Commissions for Demarcation and Titling
CONADETI	National Commission of Demarcation and Titling of Nicaragua
INTER-AMERICAN COURT	Inter-American Court of Human Rights
ILO	International Labour Organization
WHO	World Health Organization
UNDP	United Nations Development Programme
RACCN	Autonomous Region of the North Caribbean Coast
RACCS	Autonomous Region of the South Caribbean Coast
IAHRS	Inter-American Human Rights System



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CEJIL 