

NICARAGUA'S FAILED REVOLUTION

THE INDIGENOUS STRUGGLE FOR *SANEAMIENTO*



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The Oakland Institute

Acknowledgements

This report is dedicated to the courageous struggle of the Indigenous and Afro-descendent communities for *Saneamiento* in Nicaragua.

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Terms & Acronyms

ABC Project	Atlantic Biological Corridor project
ALBANISA	Alba de Nicaragua S.A.
Amparo	Emergency relief
APIAN	Nicaraguan Alliance of Indigenous and Afro-descendant Peoples
AWID	Association for Women’s Rights in Development
CADPI	Center for Autonomy and Development of Indigenous People
CAO	Compliance Advisor Ombudsman
CEJIL	Center for Justice and International Law
CEJUDHCAN	Center for Justice and Human Rights of the Atlantic Coast of Nicaragua
CENIDH	Nicaraguan Center for Human Rights
CEO	Chief Executive Officer
CISAS	Information and Health Advisory Services Center
Colonos	Non-Indigenous, non-Afro-descendant Nicaraguans from other regions who have been illegally seizing and occupying Indigenous and Afro-descendant lands.
Comité de Desarrollo de la Costa Caribe	Caribbean Coast Development Committee
CONADETI	National Commission of Demarcation and Title
COO	Chief Operating Officer
CXB.V	Calibre Mining Corporation
DNP	Nicaraguan Petroleum Distributor, INC.
Dori	Dugout canoe
ENIMINAS	Nicaraguan Mining Company
FAO	Food and Agriculture Organization
FSLN	Frente Sandinista de Liberación Nacional (Sandinista National Liberation Front)
FUNIDES	Nicaraguan Foundation for Economic and Social Development
GCF	Green Climate Fund
GIEI for Nicaragua	Interdisciplinary Group of Independent Experts for Nicaragua
GTI	Indigenous Territorial Governments
Güirisería	Artisanal mining
HEMCO	Hemco of Nicaragua, INC.
IA Court	Inter-American Court on Human Rights
IACHR	Inter-American Commission on Human Rights
IAIF	Forest Investment Attractiveness Index
IAN	Nicaraguan Agrarian Institute



IDB	Inter-American Development Bank
IFC	International Finance Corporation
INAFOR	National Forestry Institute
INDERA	Institute for the Development of the Autonomous Regions
INIDE	Nicaraguan National Institute of Development Information
MADENSA	Wood and Derivatives of Nicaragua, INC.
Manzana	Nicaragua unit of measurement equivalent of 0.7044 hectares
MAPIINICSA	Precious, Indigenous, and Industrial Woods of Nicaragua, INC.
MARENA	Ministry of Environment and Natural Resources
MESENI	Special Monitoring Mechanism for Nicaragua
Mestizo	People of mixed Indigenous and European descent
MIFIC	Ministry of Development, Industry & Commerce
OAS	Organization of American States
Parcela	Plot of land
PCN	Pacific, Center, and North of Nicaragua
Pangas	Fishing boats used by the Miskitu
PRODEP	Program for Land Management
RACCN	North Caribbean Coast Autonomous Region (previously RAAN)
RACCS	South Caribbean Coast Autonomous Region (previously RAAS)
Saneamiento	Last step of the process of demarcation and titling according to Law No 445
SERENA	Secretary of Natural Resources
SMP	Simply Wood Group
SOLCARSA	Caribbean Sun, INC., a Korean Lumber company
Syndic / Síndico	Highest political authority in the community and administrator of and natural resources
Terceros	Mestizos peasants from the pacific
UN	United Nations
USAID	US Agency for International Development
YATAMA	Indigenous regional political party in the autonomous regions of the Caribbean Coast of Nicaragua



Executive Summary

On January 29, 2020, Indigenous Alal community in the Mayangna Sauni As territory in the Bosawás Biosphere Reserve, was attacked by over 80 armed men connected to land grabbing in protected Indigenous land. Four people were reportedly killed, two injured, and 16 houses burned. In the weeks following the incident, locals remained under continuous threat and harassment, as they kept hearing guns fired in the air, near their villages. This is yet another episode in the war that has been raging for many years against the Indigenous and Afro-descendant communities in Nicaragua.

This report, based on field research conducted in 2018 and 2019 compiles dozens of first-hand testimonies from members of the communities – who have been subject to multiple murders, kidnappings, violence, and intimidation, linked to land invasions for mining, cattle ranching, and the exploitation of forests. The Caribbean Coast Autonomous Regions are particularly affected and targeted by settlers and land grabbers. Since 2015, 40 Indigenous People have been killed, dozens injured and kidnapped and some missing, in cases related to land invasions. Thousands have had to flee their homes. Displaced from the forests and the lands where they have farmed, hunted, and fished for generations, they now face hunger and disease.

Yet, Nicaragua is often seen as a world leader in the granting of land rights to native peoples. The country has exemplary laws that have established the autonomy of Indigenous communities in the management of their land and natural resources and the protection of their rights. The 1987 Law 28, Statute of Autonomy of the Regions of the Caribbean Coast of Nicaragua, recognized the multiethnic nature of the people of Nicaragua and enshrined among other rights, the rights of ethnic communities to hold and transmit communal lands and to govern themselves in their communities without external interference. Law 28 also established that communal lands are inalienable – they cannot be donated, sold, taken over or taxed, and are imprescriptible – and that any decision over the use of natural resources in the autonomous regions must be made by these communities.

But the Law 28 was never respected. Successive governments advanced so-called development and resettlement programs that exploited the Caribbean coast's lands and other natural resources, clearly violating the established protections. This involved the resettlement of thousands of ex-Contras and Sandinista ex-combatants into so-called “development

poles” throughout the autonomous regions. Successive governments also encouraged massive logging and mining activities in the supposedly protected areas, without the approval of the Indigenous and Afro-descendant communities.

One of the logging concessions became the basis for a dramatic shift in the legal status of Indigenous and Afro-descendant lands in Nicaragua and throughout Latin America. The Mayangna community of Awas Tingni sued the Nicaraguan government over a logging concession in its traditional lands, and after years of litigation, the Inter-American Court of Human Rights decided in favor of Awas Tingni in a binding 2001 decision. The Court ordered Nicaragua to communally demarcate and title these lands.

As a result, Law 28 was soon complemented and reinforced by the 2003 Law of Communal Property Regime of the Indigenous Peoples and Ethnic Communities of the Autonomous Regions of the Atlantic Coast of Nicaragua and of the Rivers Bocay, Coco, Indio and Maiz, known as Law 445. Its main purpose is to regulate the communal property regime of the Indigenous communities' lands and to guarantee the full recognition of the rights of communal property, use, administration, management of traditional lands and their natural resources.

It also contained provisions for demarcation and titling of ancestral lands, and for *Saneamiento* – the last step of Law 445, which requires clearing the Indigenous territories of non-Indigenous settlers known as *colonos* as well as corporations, who are living and using the territories without a legal title or a lease agreement with the community.

Since the law was passed, the Sandinista government, led by Daniel Ortega in power since 2006, permitted the titling of 23 territories in Nicaragua, representing approximately 31 percent of the national territory.

However, this report details how titles remain empty promises given the continuous land invasions and violence that communities face. The government has failed to provide protection to the local communities and to ensure and enforce *Saneamiento*. These communities have faced a constant stream of settlers, central government interventions, forestry and extractive industries, that threaten their lands, economic wellbeing, and political autonomy. This trend has been exacerbated in recent years with an increase in murders and kidnappings.



The suffering and violence faced by the communities is not just due to the government's failure to implement the law. This report shows that the government actually plays an active role in encouraging the colonization of the protected lands by outsiders.

For instance, the government encourages the gold rush in Nicaragua with its claim that over 7.1 million ha of land are available for mining concessions – representing nearly 60 percent of Nicaraguan territory. Yet, mining by *colonos* (settlers) and transnational corporations has been a cause of violence and displacement of Indigenous communities, while also causing serious health and environmental hazards. A handful of transnational corporations have taken control over the country's vast mining concessions – key among them being Canadian corporations such as B2Gold Corp, Calibre Mining Corp., Royal Road Minerals, and Golden Reign Resources; others include Australia's Oro Verde, the UK's Condor Gold, and Colombia's Hemco Nicaragua S.A. The promise of precious gold and silver in the remote rain-forested RACCN has lured thousands of *colonos*, further intensifying the Indigenous struggle for autonomy and communal property rights.

A 2017 law created ENIMINAS, the Nicaraguan Mining Company, and increased State involvement in the mining business through joint ventures with private firms. Within a month of the new law, the total land under mining concession increased from about 1,200,000 ha to 2,600,000 ha – over 20 percent of the country. About 853,800 ha of this land is in the buffer zone of the Bosawás reserve.

The responsibility of the Nicaraguan government doesn't stop at encouraging this exploitation and failing to protect Indigenous land rights as it should according to the protective laws 28 and 445. The research compiles a number of instances in which the government ordered repression and arrest by police forces of communities opposed to the expansion of industrial mining in recent years.

In addition to mining, logging and cattle ranching has also devastated the Indigenous land rights.

With significant tax incentives offered to forestry projects, PRONicaragua – the state's investment and export promotion agency – advertises Nicaragua as a country with nearly an endless supply of "suitable" land for forestry projects – with over 3.5 million ha available for use. Yet, the majority of Nicaragua's primary forests are found within the autonomous regions, and play an inextricable role in Indigenous lives and livelihoods. Corporations, ranchers, and illegal settlers have been clear cutting precious

rainforest to establish cattle ranches and lumber operations – devastating to the environment and the livelihoods of the Indigenous.

Nicaragua has the largest cattle-raising industry in Central America. The autonomous regions are the departments with the highest concentration of cattle and where most of the expansion has been happening. The forest cover in Nicaragua has dropped from 76 percent in 1969 to 25 percent today. President Ortega and his family have personal links to the forestry and logging business in autonomous regions through the Alba Forestal company.

The report also identifies a number of officials affiliated with the ruling FSLN (*Frente Sandinista de Liberación Nacional*) party involved in illegal land sales to settlers. Officials have also illegally granted land titles in various communities for the resettlement of ex-Sandinista and YATAMA combatants.

In the autonomous regions, the Sandinista government has found ways to by-pass these laws by forming parallel communal government bodies in cases where the local communities resisted dispossession. The research identifies several instances in which these illegitimate state-sponsored local governments attempt to take control over Indigenous land by applying for land titles or by taking control over the issuance of land titles.

In 2015, for the first time in the country's history, all Indigenous and Afro-descendant Peoples in Nicaragua assembled to create a national alliance, the Nicaraguan Alliance of Indigenous and Afro-descendant Peoples (APIAN). Today APIAN's leaders are leveraging their unity to launch a collective fight against dispossession with their demand for *Saneamiento*, the final, crucial step of the land claims process established under Law 445. Without *Saneamiento*, titles remain empty promises to traditional lands that Nicaragua must guarantee its Indigenous and Afro-descendant Peoples.

Whereas widespread human rights suppression in Nicaragua has garnered international attention in recent years, violence faced by the Indigenous and the impunity granted to settlers by the national police and the government has gone largely ignored. The case against the Nicaraguan state stagnates in the Inter-American human rights system – the government failed to show up at the November 2019 meeting at the IA Commission in Ecuador. Meanwhile the Indigenous communities continue to face the seizure of their ancestral lands through the use of force, including murders, kidnappings, rapes, attacks, burglaries, and the burning of homes and crops.



"My son was a very good son and I will remember him like that"



A home in Esperanza Rio Wawa

"I am the elected syndic¹ of Esperanza Rio Wawa. We have faced attacks since 2006 when the colonos² first arrived, but the violence escalated in 2015 with the targeting of community leaders who were calling for territorial protection.

On December 17, 2015, they came looking for me but I was not at home. When they did not find me, they threatened to kill men above 15 years of age in my community. My brother in law, [REDACTED] [REDACTED], a member of the Territorial Council, was working on his parcela when they kidnapped him. He is still missing.

When I returned from work, the village was empty and my community was hiding in the bush. Two men had been killed.³ I, too, went to hide in the bush with my five children. We called the national police. But the police did not come or investigate the killings. We waited with the bodies for two days and then buried the dead.

It was not till two years later, the morning of November 29, 2017 that the police came to enquire about the 2015 attack. That same afternoon after the police left, the colonos killed [REDACTED], my 22-year old son. [REDACTED] and his younger brother were working in the farm in the forest, not too far from here. My younger son heard a shot and saw his brother fall. The colonos then started shooting at him. He jumped into the Wawa and swam home. He told me and the community judge, "they killed my brother and shot at me, but I got away."

Men from the community went and found my son's body. We called the police who came after we put pressure on them to return. But they refused to believe that the colonos killed my son. They claim that a delinquent Miskitu youth killed him.

—continued





Grieving father whose son was killed by the colonos

As the father and the traditional authority of the village, I asked the police to prove this. But the police chose to investigate my younger 18-year old son, questioning and harassing him. Judges from four communities offered to bring the police to the colonos so they can see for themselves how they are taking over our farms. But they refused to go. I decided to investigate for myself and went with my younger son and five other men to the site where my son was killed. Just 100 meters from where the body was found were the new parcels, marked with crosses, and there were fresh bootmarks. But the police report still says that a delinquent juvenile killed my son.

This Friday [November 9, 2018], the police came to talk to me about a project that the government is implementing – providing seeds for beans and cacao crops. I told them that after my son was killed, I do not go to my farm in the forest where I was growing plantain, beans, and cacao on four hectares. So where does the government want me to plant? The government needs to first ensure Saneariamiento,⁴ and then give us the seeds. The police said, “if Ortega wanted to ensure your autonomy, he could do it. He has the army and the power. But the colonos are his people so he will not do it.”

My whole community suffers. Last month another villager, [REDACTED] was cleaning rice in his farm when the colonos arrived. He threw himself in the river and swam to the other side. This is the life we live. We are not safe. The colonos are cutting lumber and turning our forests into pastures for the cattle. They make their own roads and go to the Pacific with the cattle.

In a few days is my son’s first death anniversary. I will pray and call a pastor. I am so poor that I cannot do anything more. My son was a very good son and I will remember him like that.”⁵





Community gathering in Wiwinak, November 2018

Prologue

On January 29, 2020, Indigenous Alal community in the Mayangna Sauni As territory in the Bosawás Biosphere Reserve,⁶ was attacked by over 80 armed men connected to land grabbers engaged in illegal logging, gold mining, and cattle ranching on protected Indigenous land.⁷ Four people were reportedly killed, two injured, and 16 houses burned. Threats against the communities persist, as they report hearing gun shots near villages.⁸

“This is our land. We would plant, hunt, farm, and gather harvest. But with the invasion of colonos, we live in terror. We have experienced killings and kidnappings. People have disappeared. At night we keep guard to protect our families and our community. But the government has yet to look our way.

As the Miskitu nation, we were forced to bring our case to the Inter American Court to compel the government to end the takeover of our homes, land, and lives by the colonos. But the situation is getting worse.”

– [REDACTED], community leader of Wiwinak.⁹



Community Center, Wiwinak, November 2018

November 8, 2018 – Women, men, and children from eight communities, sailing in *doris* under torrential rain, racing against the rapidly swelling waters of Rio Coco, arrive at Wiwinak in the North Caribbean Coast Autonomous Region (RACCN). They are members of the Miskitu community, the largest Indigenous group on the Caribbean coast, with a population of around 180,000. They have come from San Jeronimo, Santa Fe, Esperanza Rio Coco, Naranjal, Klisnak Rio Waspuk, Cocal, and Polo Paiwas (in the territory of Wangki Li Aubra) and Wiwinak (in the territory of Li Lamni Tasbaika Kum).

For two days, they have gathered in the community center made of frail wood planks, to negotiate and consent to the implementation of the provisional



measure of the Inter-American (IA) Court – protecting the lives of their people and the call for *Saneamiento*. The Miskitu blame violent attacks on their lives and land on the thousands of *colonos*, the settlers who are taking over their ancestral territories – lured by the promise of cheap, fertile land, precious timber, and gold.

The patter of the tropical rain softens as it hits the wooden walls and lulls young ones to sleep. The stillness of the room is broken by cheering and singing as if in sync with the weather, which vacillates from intense heat of the midday sun to a cool breeze, as the clouds gather before exploding.

BOX 1: PRECAUTIONARY AND PROVISIONAL MEASURES FOR THE MISKITU COMMUNITIES

On October 14, 2015, in the wake of constant cycles of violence, killings, threats, and harassment perpetrated by the *colonos*, residents of five Indigenous Miskitu communities in the RACCN were granted precautionary measures by the Inter-American Commission on Human Rights (IACHR). These measures, extended on January 16 and August 8, 2016, included several members of CEJUDHCAN (Center for Justice and Human Rights of the Atlantic Coast of Nicaragua) after they received threats for defending the territorial rights of the Indigenous communities in the IA Court.

On September 1, 2016, the IA Court ordered provisional measures in favor of the Miskitu communities of Klisnak, Wisconsin, Wiwinak, San Jerónimo, and Francia Sirpi. On November 23, 2016, these measures were extended to protect the Community of Esperanza Rio Coco, and on August 22, 2017 to “the Community of Esperanza Rio Wawa, as well as the persons who have allegedly had to leave that community and wish to return,” following the invasion by 200 settlers with firearms.¹⁰

On September 6, 2019, the IA Commission requested the IA Court for the extension of provisional measures in favor of members of the Community of Santa Clara.¹¹ This followed the kidnapping of two villagers by 25 armed men who were threatened and forced to clean crops for five hours and intimidation

of two young people at the hands of 20 *colonos* carrying firearms. In addition to pointing out the acts of aggression by the settlers, the Commission mentioned the permanent presence of armed *colonos*, settled adjacent to the community, thus hindering free movement and denying community’s access to traditional fishing, hunting, and agriculture activities along with increased deforestation of the land.

Attacks on the Indigenous communities have continued to grow despite these measures. In the evening of February 16, 2020, in a settler attack on the Miskitu population of the Santa Clara community, a young girl was shot in the face.¹²

But the problem is much larger. While 12 Miskitu communities who have experienced killings are under the protection measure of the IA Human Rights system, Indigenous activists allege that the remaining communities are at high risk from the invaders.



Injury sustained by a young girl in the February 2020 attack, Santa Clara



The monotonous hum of the electric generator does not deter the attention of community members as they watch the taped recording of the September 27, 2018 IA Court hearing in Costa Rica. The regional government representative, legal advisor for the national police, and the deputy public attorney on the screen respond to the charges of violence and discrimination faced by the Miskitu despite the protection measures ordered in 2016. Between 2015 and 2018, a total of 12 murders, 9 kidnappings, 19 assaults with serious injuries, two sexual violations and six threats to members of the supposedly protected communities, have been counted.¹³

The Nicaraguan State was ordered to take measures to eradicate violence, protect and guarantee respect for life, as well as physical, territorial, and cultural identity. The State was also ordered to establish a commission with participation of the impacted communities, to determine the source of the conflict and propose possible solutions. During the hearing, government officials announced the creation of this body, but community representatives allege having no knowledge of its existence.

“We are providing education, healthcare, and other social services to the communities. The government is also providing credit to improve farm production,” the Deputy Public Attorney says in response to the provisional measure of the Court.

“But the provisional measure is about the government ensuring protection of our communities that are under attack from the *colonos*. So why is the Deputy Public Attorney talking about the responsibilities that the government *should* anyway fulfill. Is the government *unaware* of our demand for *Saneamiento*?” ask the villagers.¹⁴

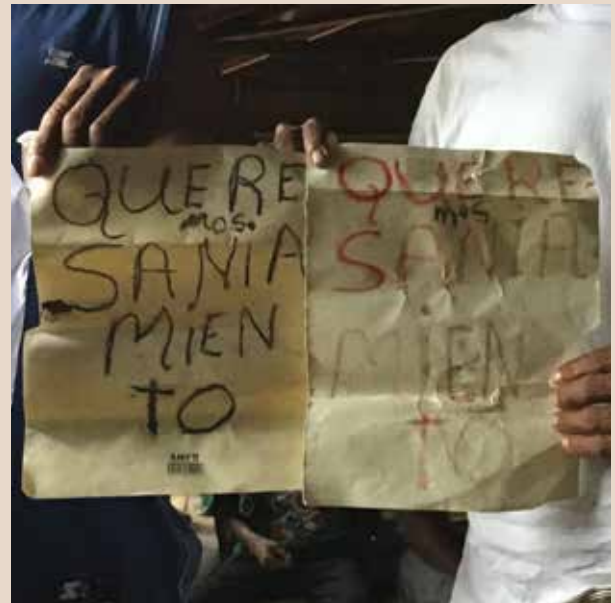
A day earlier, those gathered in Wiwnak were visited by a government delegation. According to an official document obtained by the research team, the National Commission of Demarcation and Title (CONADETI) and Waspam’s municipality officials planned to visit the communities to collect “evidence” to challenge the “lies” and discredit CEJUDHCAN and CEJIL – human rights organizations, representing the Indigenous villagers in the IA Court.¹⁵

“Given the failure of the government to respond to our plight, our leaders refused to speak to the delegation,” reported the delegation from Esperanza Rio Coco.¹⁶

The community in Klisnak was asked to cook chicken, beans, rice, and cassava. “They ask us for food so they can tell the Court that we have plenty to eat. But we gave them nothing.

We made the meeting longer and kept the delegation hungry – the government has to experience how we feel.”¹⁷

“They wanted to take our photos to tell the Court that they visited us and that we are eager to cohabitate with the colonos. We greeted them with our demand of Saneamiento written on paper and attached to our clothes. The government officials can take our photos but they cannot speak for us.”¹⁸



Miskitu villagers holding the sign demanding *Saneamiento*

“We agreed to meet with the delegation so we can tell them our truth. We live with Mother Earth. We protect her forests who provide us with medicinal herbs. We protect trees to make *pangas* for fishing. *Colonos* are deforesting our lands and devastating our lives. Because we challenge them, we face criminalization, killings, and kidnappings. But the government says that we are lying. They even call our lawyers liars. But if the lawyers are lying, the Court should come to us and bear witness to our destruction.”¹⁹

At the hearing in September 2018, lawyers from CEJUDHCAN and the CEJIL urged the IA Court to visit the communities to verify the serious risks and violence and that such a visit could help move the local authorities forward in fulfilling the Court orders.





As the evening comes for the communities living on the banks of Rio Coco

“There's No Law”²⁰

April 18, 2018, several cities in Nicaragua were rocked by thousands of protestors – predominantly students – who took to the streets. These protests – in the making since 2013 around government schemes including the environmental impact and land rights concerns around the construction of Chinese-funded inter-oceanic canal – were fueled by proposed social security reforms and government’s mishandling of a wildfire in the Indio-Maíz biological reserve in the Rama-Kriol territory. The fire broke out on April 3, 2018 devastating over 5,400 ha of land before rains put it out 10 days later.²¹

The social protests that began in Nicaragua on April 18th, 2018... were not the result of isolated occurrences, but rather stemmed from years of institutional processes and State practice that gradually restricted the expression of Nicaraguan citizens, compromised public institutions and concentrated power in the hands of President Ortega and Vice-President Murillo.

– Report on the violent events that took place in Nicaragua between April 18th and May 30th, GIEI

30 people were killed in the first five days of protests.²² Despite the withdrawal of the measure raising payroll taxes and cutting retirement benefits, protests intensified as pensioners and businesses joined in, becoming the largest political crisis in President Ortega government’s history and the deadliest civil conflict since the end of the Nicaraguan Revolution. Repression by security forces and pro-government militia²³ has been blamed for much of the violence that killed over 300 people.²⁴ Hundreds were arrested,²⁵ thousands injured, and an estimated 62,000 forced from their homes, of which 55,000 sought safety in Costa Rica.²⁶

In response, the US State Department revoked visas for some Nicaraguan officials for their alleged involvement in abuses. Francisco Díaz, then deputy chief of police and an official from the mayor’s office in Managua, was sanctioned by the US Treasury Department under the 2012 Magnitsky Act, “for being responsible for, or the leaders of, entities involved in serious human rights abuse.”²⁷ In August 2018,

Canada – one of the top five largest bilateral donors to Nicaragua with an assistance program of approximately US\$20 million per year and with major corporate mining interests in the country – stopped federal government payments to Nicaragua.²⁸ In November 2018, financial sanctions were imposed by the US on Rosario Murillo, Nicaragua’s vice president and wife of President Ortega, as well as Néstor Moncada Lau, national security advisor, to pressure the Sandinista government to end its violent crackdown of a popular uprising.

The situation in Nicaragua remains worrisome with a ban on protests and restrictions on media and the civil society. In December 2019, the US imposed sanctions on Rafael Ortega, son of Daniel Ortega, including blacklisting two of his companies (allegedly used to launder money for and finance the Ortega government) as well as Distribuidor Nicaraguense de Petroleo S.A. (DNP), which controls about a third of Nicaragua’s fuel sales and was bought with public money before being transferred to the Ortega family. Rafael



Ortega, allegedly the key money manager behind the family's illicit financial schemes, was targeted under an executive order for providing support to Murillo.²⁹ Two days after the imposition of US sanctions, Nicaragua's National Assembly approved a law proposed by President Ortega, nationalizing DNP with all inventories of fuels and petroleum products owned by the company declared of sovereign security and national interest.³⁰

Amidst such widespread human rights suppression, continued violence faced by the Indigenous People and

the impunity granted to the third-party settlers by the national police, army, and the government, goes ignored. As the case against the Nicaraguan state stagnates in the Inter-American human rights system – the government did not show up at the November 2019 meeting at the IA Commission in Ecuador – Indigenous communities continue to face the seizure of their ancestral lands through the use of force, including massacres, kidnappings, rapes, attacks, burglaries, and the burning of homes and crops – as illustrated by the January 2020 invasion of the Alal community.³¹

Struggling to Survive

"My name is [REDACTED] [REDACTED] [REDACTED] and I am from Esperanza Rio Wawa, where I had my community, my home, and my parcela.



Empty kitchen in the wooden shack of a Miskitu family displaced from Esperanza Rio Wawa

Today I live in the outskirts of Puerto Cabezas, where I cannot even have a decent home for my family. There is no work. You see how we live – my wife, my six daughters and 12 grand-children live in this wooden shack with no electricity or water. But given the fearful situation with the colonos in my community, I was forced to move here.

In Esperanza Rio Wawa, I had 60 ha where I grew coco, cacao, banana, plantains, cassava and more. But the colonos, Comandante Enrique Erasmo Flores and Cara Malo, took over my farm. I went to ask them for my land. But I was told that if I want my land back, I will have to die for it. I went to the police but they did nothing.

Colonos attacked Santa Clara and the Esperanza Rio Wawa community in September 2015. So we moved to Puerto Cabezas. Today I have no work. My wife buys vegetables at a low price and tries to sell in the municipal market. My two daughters got work as domestic help in a house but were not paid. Son of the boss even tried to violate my daughter and she had to run from the house at night. This is our life here. We eat one meal a day here. My daughters are trying to send children to school. But it is hard to study on an empty stomach.³²



The invasion of the *colonos* on the Miskitu lands has resulted in not just the takeover of their ancestral lands, but also widespread violence.

Fearful, nearly 3,000 people—629 from the four communities of the Wangki Twi Tasba Raya territory, 2,151 from the seven communities of Wangki Li Aubra, and 228 from Wiwinak,

the Li Lamni Tasbaika Kum territory, have fled their homes since 2015.³³ They have taken refuge in the outskirts of Puerta Cabezas and Waspam where they face acute hunger and disease, or in neighboring Honduras. Communities report hunger and disease as they have stopped going to the forests where they have farmed, hunted, and fished for generations.

“Three members of the Miskitu [I]ndigenous community ... have reportedly been killed so far this year. The Miskitu are facing particular risk as they are in the midst of a conflict over territory, in a context of lack of implementation by the State of official recognition of [I]ndigenous ownership over their ancestral lands. In this context, and despite the IACHR’s call to the State to protect the members of the Miskitu community, an entire family—Bernicia Dixon Peralta, her husband, Feliciano Benlis Flores, and their 11-year-old son, Feliciano Benlis Dixon—was murdered on their land. The information received indicates that this was a retaliation killing, as the family had taken their case to court and had been successful in obtaining legal title to their land.”

– Press Release, IACHR, February 10, 2017³⁴



Home of a family that lost son to violence by the *colonos*





Miskitu villager shares her testimony

Futile Wait for Justice...

" Afternoon of December 17, 2015, around 70 settlers arrived at my house where I ran a small shop.

With a pistol held against my head, I was asked to hand over everything, including the inverter and the radio that we used to communicate with other communities. When my 26-year old nephew, who I had raised as my own son, entered the house, they told him to stop. He stood there with his hands in the air when they shot him in the head. He fell right there. As the community watched, they then shot my neighbor in the leg and asked me to walk with them.

They took me to my sister's house and threatened to rape me, but let me go since I am a widow. They asked if I own a gun. They brought me back to the house to take my dead husband's gun that he used for hunting and then eventually left. We were the only family left in the village – all neighbors had run away to hide in the bush.

I have often wondered why I was picked by them – perhaps because of the radio. Just that morning we had heard about the trouble with the colonos in Wisconsin and then we were attacked. My sister went to the police to report the killing of her son but they refused saying that they have no money or orders from the national police to investigate. When the colonos took me, they told me, "you have no government. We own the government."

The government has done nothing. I went to the international court in Costa Rica and finally my voice was heard. But I don't know if our government will comply. The government pushes us to dialogue with the settlers who shot two men and kidnapped three, who are still missing, in my village. The government wants us to rent out our homes and lands to the colonos who terrorize us."³⁵





Rio Coco, RACCN

History Of Land Struggle In The Caribbean Coast

The unique history of colonialism and resistance has shaped the land rights struggle and sociopolitical situation of the Indigenous and Afro-descendant People on the Caribbean coast. Unlike the Pacific coast, where Spanish colonizers carried out a genocidal campaign of conquest and enslavement that decimated the Indigenous population in the 16th and 17th centuries,³⁶ the Caribbean coast was relatively shielded. Separated from the rest of Nicaragua by a natural barrier of mountains, dense rainforest, and swamps, the Indigenous People of the Caribbean coast – today known as the Miskitu, Mayangna, Ulwa, and Rama Peoples – were able to maintain virtually total control of their territory until the 19th century.

Early Colonial Period

In the early colonial period, Miskitu leaders crafted strategic alliances with British visitors to the region that would become known as the Mosquitia. By the mid 17th century, England recognized a Miskitu king over the region and engaged in extensive trade with the Miskitu, who became the dominant group in the area.³⁷ This relationship deepened over the following century with treaties between the two sides, a military alliance against the Spanish, expanded trade, and the establishment of several British settlements.³⁸ During this time, the British imported African slaves to their settlements, some of whom, having escaped or been shipwrecked, integrated into the Indigenous Peoples or formed their own communities.³⁹ Free Afro-descendants and Indigenous People outside of the dominant Miskitu group employed a variety of strategies to maintain their autonomy, including both direct resistance and occasional alliances with the Spanish against the Miskitu and British.⁴⁰

By the 18th century, the Mosquitia became central to global conflicts between European empires.⁴¹ In part, Spain sought to end repeated Miskitu attacks on their settlements, but, foreshadowing a key issue still relevant today, the Spanish and British also sought control over what was then the

easiest route between the Atlantic and Pacific.⁴² The San Juan river, running along portions of the present-day border between Nicaragua and Costa Rica, is navigable from the Caribbean to Lake Cocibolca, which in turn extends to a point that is only 19 kilometers from the Pacific.⁴³ Both the Seven Years War and American Revolutionary War saw major battles along the San Juan River and Miskitu involvement on the side of the British. Crucially, the Peace Treaty of Paris in 1783 required the evacuation of all British settlers from the Mosquitia.⁴⁴

When the British evacuation was enforced several years later, Spanish efforts to win over the Miskitu were rebuffed, and the Indigenous and Afro-descendant Peoples of the Mosquitia had nearly total autonomy from European powers over the next few decades.⁴⁵ By the 1830s, British officials returned to the Mosquitia and claimed reestablishing of British protection of the sovereignty of the Miskitu king – much to the chagrin of the government of the recently-independent Nicaragua.⁴⁶ Slavery was abolished in the Mosquitia in 1834, and both Afro-descendants who had been born free and those who had been liberated began to identify in this period as Creoles (also written today as Kriols).⁴⁷



Soon, the Mosquitia and Nicaragua again became central to international disputes, with the US taking the side of Nicaragua. During the California Gold Rush, the San Juan River became a key route between the eastern and western US.⁴⁸ The US interest in establishing control over the route led to mounting US military and diplomatic pressure on the UK to end its protectorate over the Mosquitia and cede control over the San Juan to Nicaragua, including the US naval bombardment of the Mosquitian town at the Caribbean mouth of the river in 1854.⁴⁹

Creation of the Mosquito Reserve

Despite Mosquitian protests that only the Miskitu king could cede sovereignty over the Mosquitia,⁵⁰ the UK signed over underlying sovereignty to Nicaragua in the 1860 Treaty of Managua. That treaty converted most of the Mosquitia into the Mosquito Reserve, where a hereditary chief – the former king – was to govern over all internal matters.⁵¹

Under the reserve government, banana and mining exports from the Mosquito Reserve became the core of the economy, and laborers were drawn to the region from across the West Indies. As interest in land increased, the reserve government established new regulations. On the one hand, land commissioners could issue private titles in areas where commercial agriculture and international trade had become concentrated; on the other, only those native to the reserve and those who had resided in it for at least five years could hold official leases in public lands.⁵² Even so, these titles and leases still accounted a very small proportion of Indigenous and Afro-descendant land use in the Mosquito reserve.⁵³

Annexation of Mosquito Reserve

In 1894, under the guise of defending against a Honduran invasion, Nicaraguan troops occupied the capital of the Mosquito Reserve in Bluefields. After several skirmishes and brief occupations by UK and then US marines, Nicaragua declared the termination of the Mosquito Reserve and incorporated it into the country.⁵⁴ The Nicaraguan government quickly brought in a new group of officials, soldiers, and Nicaraguan and international businessmen who were granted massive land titles and business concessions. Public lands that had been titled to communities under the reserve government were converted to Nicaraguan national lands. Amidst this massive and rapid dispossession of the Indigenous and Afro-descendant communities, the Nicaraguan authorities sought to prevent them from hunting and fishing in their traditional territories.⁵⁵

Seeking to resolve remaining disputes from the overthrow of the Mosquito Reserve, the governments of Nicaragua and the UK negotiated the 1905 Harrison-Altamirano Treaty. The two sides formalized the full annexation of the former Mosquito Reserve to Nicaragua and created a land commission that would survey and title communal lands that had existed in the laws of the reserve. Former citizens of the reserve who did not otherwise have titled lands were to be eligible for smaller and individual titles based on family size. This titling process took nearly three decades of wrangling over the course of several governments, a US military occupation of Nicaragua, and a civil war, and it concluded with a very incomplete set of thirty communal titles along with hundreds of individual titles.⁵⁶ Notably, it excluded the many Indigenous and Afro-descendant communities of the former Mosquitia that fell outside the boundaries of the former Mosquito Reserve. Additionally, many of the communities that received titles continued to use lands and waters outside the titled areas for hunting, fishing, and occasional agriculture. Still, the treaty would serve as a basis for land-based activism during the following century.⁵⁷

The period between the overthrow of the reserve and the Sandinista revolution in 1979 was characterized by the conversion of the Caribbean coast into an enclave economy open to unmitigated exploitation by US companies. Fruit, mining, and logging companies obtained massive concessions in both communal lands and the supposedly empty “national lands” while the US government protected their interests during the military occupation (1912-1933) and the US-supported Somoza military dictatorship (1936-1979).

A New Wave of Migration

At the same time that capital and workers were being drawn to the Caribbean coast’s enclave economy, a separate wave of migration began: Indigenous People and *mestizo* Nicaraguans from central Nicaragua escaping political violence and dispossession.⁵⁸ This continued throughout the years of the Somoza military dictatorship (1936-1979), as vast swathes of land for cotton and cattle in the Pacific and central zones of the country were taken over by the Somoza family and allies – pushing the displaced further into the former Mosquitia.⁵⁹

The Somoza regime also explicitly formulated plans for the resettlement of *mestizo* peasants from the Pacific and central zones on the Caribbean coast⁶⁰ – a policy followed by administrations since then to use “land colonization as a political safety valve” to placate the rural class with access to “empty” lands.⁶¹





Rio Coco

In 1961, for instance, the Ministry of Agriculture initiated several pilot projects for colonization to settle displaced rural population.⁶² By 1966, 22 colonies were already established and several large colonization projects planned.⁶³ Of the new projects, the 18,211 ha General Anastasio Somoza Garcia colony was formed in the north-eastern edge of the Jinotega department – neighboring RACCN and today containing parts of Bosawás.⁶⁴ About 600 families were provided with legal titles, agricultural credit and technical assistance, followed by a second phase of settlement of people from north-central Nicaragua, with the anticipation “that all national territory in this part of the country will thus eventually become occupied.”⁶⁵ The land-poor peasants were encouraged to migrate to these frontiers for free land grants up to 50 manzanas (35 ha) and between 1963 and 1979, Instituto Agrario de Nicaragua – IAN (Nicaraguan Agrarian Institute), granted nearly 77,000 ha of land titles to settlers in the Caribbean coast.⁶⁶

Compounding the state-led colonization efforts in RACCN were the upheavals brought by the Sandinista revolution and the Contra war. Between 1975 and 1976, a wave of terror against the rural population of the north-central highlands

initiated by the Somoza regime displaced 80 percent of the people.⁶⁷ Many sought refuge in remote areas with Siuna in the RACCN as a primary destination.⁶⁸ This led to massive deforestation within the former Mosquitia and set the stage for future land conflicts as settlers created infrastructure for more settlers to follow their paths.

After the Sandinista revolution in 1979, Indigenous and Afro-descendant groups quickly began working with the new government to draft maps of communal lands and bring healthcare and other state services to their communities. But by 1981, relations between these two sides broke down. Hostility arose when the Sandinista government introduced a Spanish-only campaign to bring literacy to the countryside. The mapping project ended with a claim by the ethnic communities to virtually the entire former Mosquitia – a proposal that the Sandinista leadership considered radical enough to warrant arresting the leaders of the groups.⁶⁹ Soon thereafter, these groups openly rebelled against the Sandinistas, forming armed groups that joined the CIA-supported Contras in Honduras, Costa Rica, and within Nicaragua.⁷⁰



Law 28 – The Autonomy Statute & the Recognition of Communal Property Rights

Fighting on the Caribbean coast drew to a standstill by the mid 1980s and leaders from the two sides began negotiating a peace agreement that would grant autonomy to the former Mosquitia. A package of constitutional amendments and an autonomy statute, known as Law 28, was approved in 1987.⁷¹ The constitutional amendments and Law 28 recognized the multiethnic nature of the people of Nicaragua⁷² and enshrined the rights of the peoples of the Caribbean coast to hold and transmit communal lands,⁷³ to practice and preserve their languages and cultures,⁷⁴ to receive culturally appropriate education in their own languages,⁷⁵ to practice traditional medicine,⁷⁶ and to govern themselves in their communities without external interference,⁷⁷ among other rights. Law 28 also established that communal lands are inalienable and that any use of natural resources in the autonomous regions must recognize communal property rights.⁷⁸

Law 28 established two autonomous regions – today the North Caribbean Coast Autonomous Region (RACCN) and South Caribbean Coast Autonomous Region (RACCS). Each region would have a legislature in the form of an elected regional council with designated seats for each ethnic group, and each regional council would elect a regional government. The regional governments were to implement national development plans within the autonomous regions, with power over matters of health, education, culture, supplies, transportation, and community services, among others, to be devolved from the central government over the subsequent years.⁷⁹

The autonomy statute was, however, implemented amidst the 1990 regional and national elections, in which the Sandinistas lost power to the first of three consecutive conservative presidents who would rule the country until 2006. Although these presidents formally recognized the autonomy regime, when it came to governance, they preferred to work through parallel central government agencies.⁸⁰ The administration of Violeta Barrios de Chamorro, the first of these presidents, created the Institute for the Development of the Autonomous Regions (INDERA), a central government ministry that managed the exploitation of natural resources on the Caribbean coast with no oversight from the autonomous regions' representative governments.⁸¹ INDERA was eventually dissolved under pressure from the Regional Councils,

however, subsequent administrations introduced similar entities like the Secretariat for Atlantic Coast Issues to serve the same purpose.⁸²

Meanwhile, these governments advanced national development and resettlement programs that exploited the Caribbean coast's lands and other natural resources, clearly violating the new protections of communal lands under the Constitution and Law 28. Following the end of the war, the Chamorro administration used the "empty" lands of RACCN and RACCS as part of the demobilization and reconciliation process for veterans and ex-combatants.⁸³ Ex-contras were promised 50 manzanas (35 ha) in designated settlement zones, known as "development poles," that would offer services such as schools, water, electricity, clinics, and roads.⁸⁴ The program was ill-considered – the amount of land needed to fulfill the grants required was 900,000 manzanas (633,960 ha) of land. During the 1990s, Bosawás became a primary resettlement zone with the development poles placed in Siuna, Waslala, and Bocay.⁸⁵ Migration was facilitated by the improvement of the Matagalpa–Waslala–Siuna highway in 1987⁸⁶ – and Bosawás found itself full of *colonos* – heavily armed ex-combatants⁸⁷ – setting up inevitable conflict in the coming years.⁸⁸

Years of right-wing governance also saw multiple proposals for inter-oceanic canals and massive logging and mining activities.⁸⁹ All of this took place without the government having sought approval from, let alone consulted with, the Indigenous and Afro-descendant communities. One of the logging concessions issued during this period became the basis for a dramatic shift in the legal status of Indigenous lands in Nicaragua and throughout Latin America. The Mayangna community of Awás Tingni sued the government over a logging concession in its traditional lands, and after years of litigation, the Inter-American Court of Human Rights decided in favor of Awás Tingni in a binding 2001 decision. The Court accepted the argument that the protections for property in the American Convention on Human Rights – ratified by 24 countries, including Nicaragua, at the time of the decision – included traditional communal lands. The Court ordered Nicaragua to demarcate and communally title these lands, but it also established that such lands were protected by the convention even without having been titled.⁹⁰



BOX 2: AWAS TINGNI V. NICARAGUA – SEEKING RECOURSE THROUGH THE COURTS

Despite the Indigenous rights to communal land and natural resources enshrined in both the 1987 Constitution and the 1987 Autonomy Statute, land tenure security remained vulnerable amidst an increased rush by private companies towards the resource-rich areas of the Caribbean Coast with support of the government.⁹¹

In December 1993, the Ministry of Environment and Natural Resources (MARENA) granted a 43,000 ha logging concession to a Dominican-owned company, Madera y Derivados de Nicaragua, S.A. (MADENSA), without informing the residents.⁹² Under pressure, the concession was suspended and a trilateral agreement negotiated in May 1994 for a “community-based natural forest management project that was economically beneficial, environmentally sound, and respectful of human rights.”⁹³

Unbeknownst to the community, however, the government was negotiating a logging concession of 62,000 ha – adjacent to the MADENSA management area – with Sol del Caribe, S.A. (SOLCARSA), a Korean company.⁹⁴ By July 1995, when the community leaders learned about the deal, the government had already provided preliminary approval and an exploration license to SOLCARSA on lands “to which community members had current and historical use rights and cultural claims.”⁹⁵ The community filed an action for *amparo* (emergency relief) at a regional appellate tribunal, alleging violations of Nicaraguan laws that affirmed the rights of Indigenous communities over their traditional communal lands. The tribunal ruled that the community was aware of the agreement and had thus given tacit approval to the project. The community appealed the decision at the Supreme Court, which found the concession to be “illegal” but the work was not stopped.

In October 1995, Jaime Castillo Felipe, a *syndic* of the Mayangna community of Awas Tingni, petitioned the IACHR against the State of Nicaragua in his own name and on behalf of the community,⁹⁶ alleging violations of their rights to property, cultural integrity, and other rights that are affirmed in the American Convention on Human Rights – to which Nicaragua is a party – and other international instruments.⁹⁷ The petition also requested precautionary measures, since the government was about to grant SOLCARSA a logging concession on the community’s communal lands.⁹⁸ Despite this, on March 13, 1996, the government granted the concession to SOLCARSA.

While the case proceeded at the international level, two members of the Regional Council of the North Atlantic Autonomous Region, filed an *amparo* action with the Nicaraguan Supreme Court, demanding that the concession be revoked as it had not been approved by the Council as required by Article 181 of the Constitution. In February 1997, the SOLCARSA concession was declared unconstitutional, however the government secured a *post hoc* ratification by the Regional Council through a divided vote in October 1997. The dissenting Regional Council members filed a request for execution of the Supreme Court’s earlier ruling – declaring the concession unconstitutional. The Supreme Court agreed and directed the Nicaraguan President to nullify the concession. Shortly after, SOLCARSA was notified by the MARENA that the concession had been cancelled.⁹⁹

Despite this win, the land tenure issues remained unresolved. The Awas Tingni community, like the majority of other Indigenous communities of the Caribbean Coast, lacked official demarcation of its traditional territory or other recognition of traditional land and resource tenure. A few weeks after the cancellation of the concession, in June 1998, the Commission filed a complaint against Nicaragua before the Inter-American Court of Human Rights.¹⁰⁰

–continued



On August 31, 2001, international legal precedent upholding the collective land and resource rights of Indigenous Peoples was established when the Court ruled that the state of Nicaragua had violated the property rights of the Awas Tingni community by granting a logging concession to a foreign company within the community's traditional lands and by failing to provide adequate recognition and protection of the community's customary tenure. The final verdict noted that the right to property includes and protects traditional Indigenous systems of land tenure – vital international precedent for land rights claims to come.¹⁰¹ The Court ruled that Nicaragua must secure the effective enjoyment of the Indigenous Peoples to the lands that they traditionally use and occupy, which it had not done for the Awas Tingni nor for the vast majority of Indigenous communities of the Caribbean Coast. Nicaragua was ordered to create a clear mechanism and process for demarcating and titling Indigenous lands in accordance with their customary law, values, customs and more and undertake that process for Awas Tingni.¹⁰² It also decided that, until such mechanism was created, the State had to refrain from any acts that might affect the existence, value, use or enjoyment of the property located in the geographic area where the members of the Indigenous community live and carry out their activities. This ruling influenced the creation of Law 445, which was enacted in early 2003.¹⁰³

But the struggle of Awas Tingni did not end there. In the months and years after the ruling, the community was in a protracted negotiation over the actual demarcation and titling of their land.¹⁰⁴ By 2002, it was back in the court to secure provisional measures to avoid immediate and irreparable damage resulting from activities of third parties in their territory.¹⁰⁵

In December 2008 – over seven years after the initial court verdict – the community finally received a title to 74,000 ha of land.¹⁰⁶ In the years between the court's verdict and the receipt of title, however, huge swaths of outsiders had moved into the territory.¹⁰⁷ Today, the Mayangna (Sumo) hold title to their lands, but the number of *colono* families settled in Awas Tingni has risen from 40 in 2005, to over 800 families in 2015 – occupying over 90 percent of the land.¹⁰⁸ In 2009, the Inter-American Court deemed the Nicaraguan government in compliance with its ruling and closed the case,¹⁰⁹ while the process of true titling and justice remains elusive.



Miskitu villagers living on the banks of Rio Coco



Law 445: Communal Lands Law

Awás Tingni v. Nicaragua ultimately led the government under President Enrique Bolaños to approve a communal lands law in 2003 – The Law of Communal Property Regime of the Indigenous Peoples and Ethnic Communities of the Autonomous Regions of the Atlantic Coast of Nicaragua and of the Rivers Bocay, Coco, Indio and Maiz – commonly known as Law 445.

The law guarantees the self-determination of Indigenous and Afro-descendant communities and recognizes the assembly of all community members as the highest authority in each community. Each community may then elect a communal government, which in turn may join with other nearby communities to form a territorial assembly and territorial government.¹¹⁰ These representative institutions are then responsible for applying for demarcation and titling of their ancestral lands and preparing reports with evidence of

traditional occupancy of the lands. The law creates a two-tiered institutional arrangement for receiving land claims – an Intersectorial Demarcation and Titling Commission in each of three zones and a National Demarcation and Titling Commission to oversee the process and issue the final titles.

After the first step of submitting an initial claim, the commissions are required to proceed through additional four steps: resolving conflicting land claims, measuring and marking the lands, titling, and lastly *Saneamiento*.¹¹¹ For this last stage, the law specifies that communal land titles defeat all other titles except under a few conditions.¹¹² In all other cases, non-community members and corporations, who are living and using the territories without a legal title or a lease agreement with the community, must leave the land.¹¹³

Once titles are issued, Law 445 provides more specific protections than the general guarantee of inalienability of land in the Constitution and Law 28. It requires that municipal and regional governments respect the inalienability of communal lands and that they consult with the affected communities before emitting any concession for the use of natural resources.¹¹⁴ When such concessions are issued, any government revenues must be shared evenly between the four levels of government: central, regional, municipal, and communal.¹¹⁵ The displacement or relocation of any community is forbidden under the law.¹¹⁶

Failed Promises of Law 445

In practice, the land claims process proceeded in fits and started under the Bolaños government. With support from international financial institutions and foreign aid agencies, multi-communal territorial governments were formed in order to file land claims and prepare reports with evidence of traditional occupancy.¹¹⁷ The process of demarcating and titling the lands, however, stalled before titles were issued.¹¹⁸

As part of their successful 2006 election campaign, the Sandinistas pledged to restart the titling process. Since President Ortega's return to office after November 2006 elections, 23 territories have been titled, representing approximately 31 percent of the national territory.¹¹⁹ The titles, however, have remained empty promises due to the government's failure to ensure and enforce *Saneamiento* – the last step of Law 445 – whereby the Indigenous and Afro-descendant communities are calling for the removal of colonists and outside industries from their lands except as authorized by them.



Empty classroom in a Miskitu village



A Timeline of Land Struggle in RACCN

Mid-17th Century England recognizes a Miskitu king over the region of Mosquitia. They develop a relationship via trade, treaties, a military alliance against the Spanish, and the establishment of British settlements.

- 1783** Paris treaty ends the US Revolutionary War and requires the evacuation of all British settlers from the Mosquitia. The Indigenous and Afro-descendant Peoples in the Mosquitia have near total autonomy from European powers.
- 1830s** The British return to the Mosquitia and reestablish protection of the sovereignty of the Miskitu king.
- 1834** Slavery is abolished in the Mosquitia. Afro-descendants in the region begin to identify as Creoles (Kriols).
- 1854** Naval bombardment by US forces of a coastal Mosquitian town.
- 1860** Signature of the Treaty of Managua between the UK and Nicaragua, passing sovereignty over the Mosquitia to Nicaragua. Most of it becomes the Mosquito Reserve.
- 1894** Occupation by Nicaraguan troops; Incorporation of the area into Nicaragua. Massive land titles and business concessions are granted and restrictions on Indigenous and Afro-descendant's livelihoods begin.
- 1905** The Harrison-Altamirano Treaty formalizes the full annexation of the Mosquito Reserve to Nicaragua and creates a commission to survey and title communal lands.
- 1905 – 1935**
Thirty communal titles and hundreds of individual titles are issued, leaving out many Indigenous and Afro-descendant Peoples.
- 1905 – 1979**
The Caribbean coast becomes an enclave economy, based on massive concessions of land to US-based fruit, mining, and logging companies. Waves of migration to the coast take place.
- 1936-1979**
The ruling Somoza family obtains vast swathes of land for cotton and cattle ranching and begins resettling *mestizo* peasants from the Pacific and Central regions to the Caribbean coast.
- 1979** Beginning of the Sandinista Revolution. First mapping of communal lands by Indigenous groups.
- 1981** Sandinistas introduce a Spanish-only literacy campaign; The Indigenous lay claim to the entire former Mosquitia land.
- 1987** Law 28 – the Autonomy Statute – and various Constitutional amendments are passed. Creation of two autonomous regions – RACCN and RACCS. It is established that communal lands are held by the peoples of the Caribbean coast, that these lands are inalienable, and that any use of natural resources in the region must recognize communal property rights.
- 1990 – 2007**
The Sandinistas lose power. A parallel governance structure under the central government is established and used to govern the RACCN and RACCS. Thousands are resettled to the Caribbean coast and multiple projects are ushered in to exploit the natural resources without Indigenous consent.
- 2001** One such project spurs the *Awás Tingni v. Nicaragua* court case, heard before the Inter American Court of Human Rights. The court sides with the Indigenous Awás Tingni and decrees that Indigenous lands are protected by the Inter American Convention even if they have not been formally titled. The court orders the government to demarcate and title Indigenous land.
- 2003** Law 445 is passed. It guarantees the self-determination of Indigenous and Afro-descendant communities and establishes a five-step process: diagnosis and application submission, conflict resolution, measurement and demarcation, providing title, and then *Saneamiento*. The final step, *Saneamiento*, requires clearing the Indigenous territories of *colonos* “settlers” and corporations, who are living and using the territories without a legal title or a lease agreement with the community.
- 2007-present**
Sandinistas reclaim power after a campaign that pledges to restart the process of titling Indigenous lands. Twenty-three territories have been titled, but justice remains elusive.





Drivers of Colonization

Along with state-sponsored forced dispossession (such as resettlement schemes for ex-combatants), export economies of mining, timber, and cattle ranching have been the key factors attracting *colonos* from the Pacific region as well as transnational corporations to Indigenous lands in Nicaragua's North Caribbean coast.

Gold Rush Amidst the Promise of Autonomy

Nicaraguan government claims that over 7,100,000 ha of land is available for mining concessions¹²⁰ – representing nearly 60 percent of the country's territory. While *güirisería* or artisanal mining has a long history throughout Nicaragua – particularly in the RACCN,¹²¹ it is the transnational corporations that are increasingly in control of the country's vast mining resources. Key among them are Canada's B2Gold Corp., Calibre Mining Corp., Royal Road Minerals, and Golden Reign Resources; Australia's Oro Verde; UK's Condor Gold; and Colombia's Hemco Nicaragua S.A.. Along with the mining companies, the promise of precious gold and silver has also lured thousands of *colonos* to the

RACCN, intensifying the Indigenous struggle for autonomy and communal property rights.

Invaded for Gold

The discovery of gold in 1880 in the remote rain-forested northeastern region of the country gave rise to the three communities of Siuna, La Rosita, and Bonanza – known as the Golden Triangle.¹²² Carved out of the rainforest in the 1930s by a Canadian Rosario Mining Company, Bonanza exemplifies the devastating implications of the gold boom on the Indigenous in Nicaragua.

*The occupation of the territories and the exploitation of gold by the settlers has transformed the community economy...the Indigenous have lost control of the land as a means of production and income generation. The Indigenous have been forced from their homes... exacerbating poverty.*¹²³





Displaced resident of Murubila

And the Government Says That No One Has Been Displaced

"In my village, Murubila, in the Wangki Li Aubra territory, artisanal gold mining helped with our livelihoods.

But colonos arrived to take away our lands. Our leader Steadman Fagoth¹²⁴ assured us that he will take out the settlers since they were coming for gold and to work as small-scale miners.

In 2015, I was at a hospital in Waspam¹²⁵ for three nights when my child was sick. This is when my community was attacked by the colonos. I saw many who were injured at the hospital. I took a dori with my children and escaped but found no one when we arrived at our neighboring community, Klisnak. Everyone had been displaced.

My uncle went back to check on our village but was killed by the settlers. We hid for a week in the bushes near a creek, and then moved around until we arrived in Wiwinak.

I now live here with my husband. We survive working odd jobs for the community for 100 Cordoba [US\$3]¹²⁶ a day. Food is expensive so we survive with very little. Situation with the children is not good. I do not want anyone to hurt my children, or mistreat them, because they are refugees. I know that we have overstayed, but there is no other place to go. And the government says that no one has been displaced by the colonos."¹²⁷



Community house where displaced refugees live in Wiwinak

The RACCN territories most impacted by extractive industry related violence are Wangi Twi Tasba Raya, Wangki Li Aubra (Polo Paiwas, Esperanza Rio Coco, Cocal, Klisnak, and Santa Fe) and Li Lamni Tasbaika Kum (Wiwinak).¹²⁸ In Wangki Li Aubra, the whole community of Polo Paiwas near the Murubila mine, was displaced by settler violence that began on October 29, 2015 with the murder of a young man, Herman Martinez. Homes of 22 families (out of 27 families) were burnt down by the *colonos*. Displaced residents moved to neighboring communities of Klisnak, Waspuk Ta, Wiwinak, Esperanza Rio Coco; some moved to the urban areas in Bilwi and Waspam; and some to border communities in Honduras including Suji and Pransa.¹²⁹



Growing Control of the Mining Sector by Transnational Corporations

Nationalization of mines that followed the Sandinista victory in 1979 was reversed in 1990 after the victory of Violeta Chamorro as part of her commitment to a market-based economy. Promotion of an “enabling” investment climate led to bilateral trade agreements, investment treaties, and legislation, including the Foreign Investment Promotion Law 344 which established solid legal guarantees for foreign investors.¹³⁰ In the mining sector, Law 387 of 2001 granted concessions to multinational companies with rights for both exploration and exploitation for a term of 25 years, with the ability to renew for another 25 years.¹³¹

Four different governments – Chamorro, Alemán, Bolaños, and Ortega in his second term – worked to make the country more attractive to investors.¹³² The 2014 World Bank’s Doing Business Report ranked Nicaragua as the top reformer in Central America,¹³³ and foreign mining companies flocked to the country.

“As an investor you have access to government decision makers, rules are clearly stated, there is a pro-mining attitude, the workforce is excellent and best of all there are numerous opportunities.”

– Randy Martin, founder and CEO, RNC Gold Inc. and “developer” of HEMCO Nicaragua¹³⁴

In 2017, gold was the fourth highest value export, after insulated wire, knit T-Shirts, and coffee,¹³⁵ valued at US\$425 million.¹³⁶ ENIMINAS, the Nicaraguan Mining Company, created in June 2017 by the National Assembly, enabled State participation in the mining business and gave it power to decide which mining companies it will associate with for exploitation in specific mining reserves. Within a month of the new law, the country’s total land area under mining concession increased from about 1,200,000 ha to 2,600,000 ha – placing over 20 percent of Nicaragua’s land under mining concessions.¹³⁷ About 853,800 ha of this land is in the buffer zone of the Bosawás reserve.¹³⁸

FIGURE 1: MAJOR GOLD MINES & PROJECTS IN NICARAGUA



Source: OroVerde Limited¹³⁹

A Bonanza for Foreign Corporations

The growth of the mining sector has come with opacity and contradictory changes of ownership and concession size in RACCN, thus allowing companies to evade accountability for land grabbing and resulting harm to the Indigenous communities.



“A river is now polluted by the Hemco gold mining activities. Many years of cyanide have gone into the river. People have lung problems and bathing in the river causes severe itching. Even small creeks are contaminated.”

– A Mayangna Matumbak leader¹⁴⁰

Musical Chairs: The Case of Hemco Nicaragua, S.A.

Following the privatization of the gold mines in 1994, Hemco de Nicaragua S.A. (Hemco) – a joint venture between Hemco’s chairman, a Texas oilman named Nelson Bunker Hunt and the McGregor family of Nicaragua – secured a 50-year mining exploitation concession on 12,400 ha.¹⁴¹ Information about which company controlled the concession was not clear to the local community since Greenstone Resources, a Canadian firm, optioned the concession for US\$9 million from Hemco.¹⁴² Following the bankruptcy of Greenstone Resources Inc., the concession reverted back to Hemco in 1998. Since then, there has been a multi-year, multi-company round of musical chairs around the ownership and the size of the concession.

In 2003-2004, Hemco’s concession was acquired by RNC Gold Inc. – founded and run by an American mining engineer Randy Martin, formerly the Vice President and COO at Greenstone Resources,¹⁴³ listed in 2019 as the chief operating officer of Toronto-listed in-production gold mining

company, Para Resources¹⁴⁴ and the Chairman and CEO of a privately held milling company, Nicaragua Milling.¹⁴⁵ Several media articles list Martin has having developed Hemco Nicaragua – a 1,200-tonne-per-day underground and open-pit mine at Bonanza and at RNC Gold developing the La Libertad mine, before merging with Yamana Gold (TSX: YRI; NYSE: AUJ) in 2006.¹⁴⁶

In May 2009, another Canadian company, Calibre Mining Corp. (CXB.V) acquired 100 percent of Yamana Nicaragua S. A., a wholly owned subsidiary of Yamana Gold Inc., and its interest in the NEN property.¹⁴⁷

Renamed Borosi Project by Calibre, the concession included the La Luz, Rosita, and Bonanza mines,¹⁴⁸ comprised of six mineral and five exploitation concession, now totaling 71,000 ha in northeastern Nicaragua.¹⁴⁹ The same year, B2Gold Corp, Nicaragua’s largest gold producer, acquired up to 51 percent of the NEN property of Calibre.¹⁵⁰

TABLE 1: NEN PROPERTY TENURE

Concession Name	Accord #	Size (ha)	Type	Expiration Date	US\$/ha/yr.
Siuna H-1	53-DM-36-2007*	5,200.0	Mineral	28-Jul-27	\$4
Asa H-1	56-DM-39-2007*	3,200.0	Mineral	28-Jul-27	\$4
Nueva America H-1	76-DM-57-2007*	3,200.0	Mineral	28-Jul-27	\$4
Rosita H-2	81-DM-62-2007*	25,484.5	Mineral	28-Jul-27	\$4
Hemco II	54-DM-37-2007*	11,350.0	Mineral	16-Jun-27	\$4
Bonanza H-1	Paiwas	16,184.2	Mineral	28-Jul-27	\$4
		64,618.7			
Siuna D	57-DM-40-2007	1,200.0	Exploitation	9-Jun-44	\$8
Rosita D	55-DM-38-2007	3,356.9	Exploitation	9-Jun-44	\$8
Riscos de Oro	59-DM-42-2007	400.0	Exploitation	9-Jun-44	\$8
Blag	65-DM-48-2007	600.0	Exploitation	9-Jun-44	\$8
La Luna	61-DM-44-2007	800.0	Exploitation	9-Jun-44	\$8
		6,356.9			

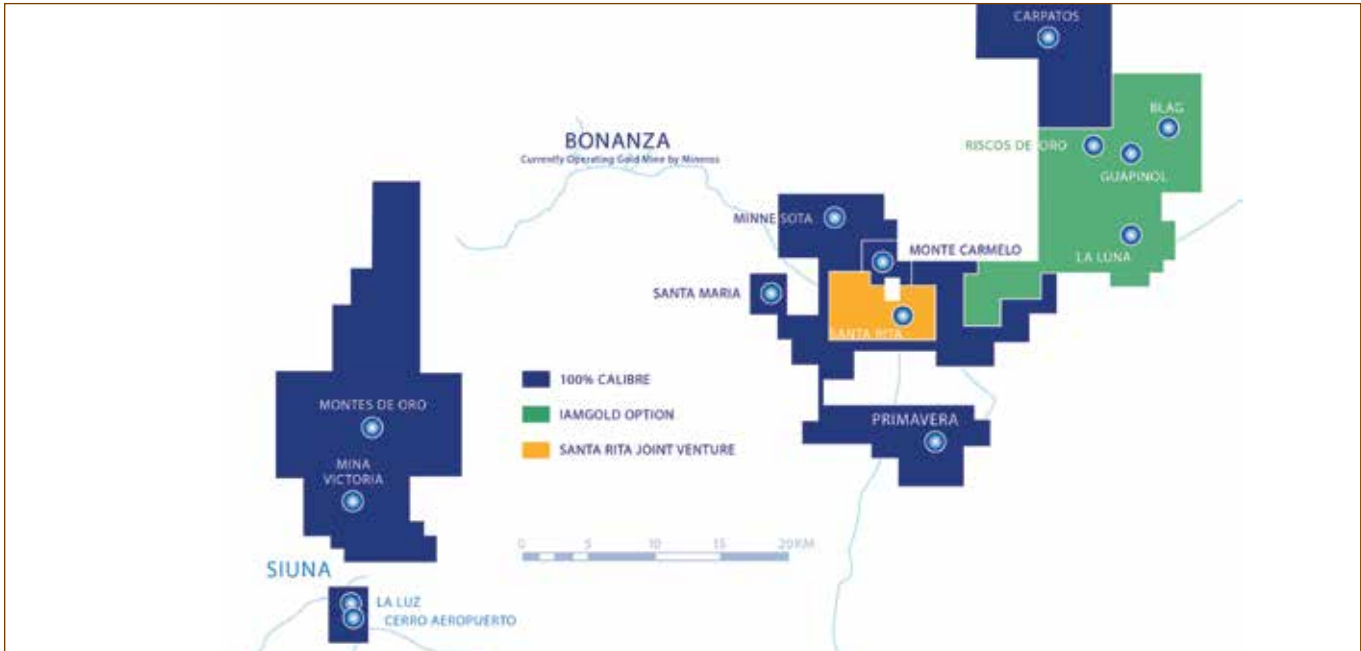
*Note 1. Accord numbers assigned as of December 31, 2008; new numbers will be assigned for concessions which were reduced in size January 1, 2009. Source: Calibre Mining Corp. 2009



Interestingly, Randy Martin is also listed in several media articles and press releases as the chairman and CEO of RNC (Management) Ltd. a private company who owned and operated the Bonanza Mine in Nicaragua until its sale to

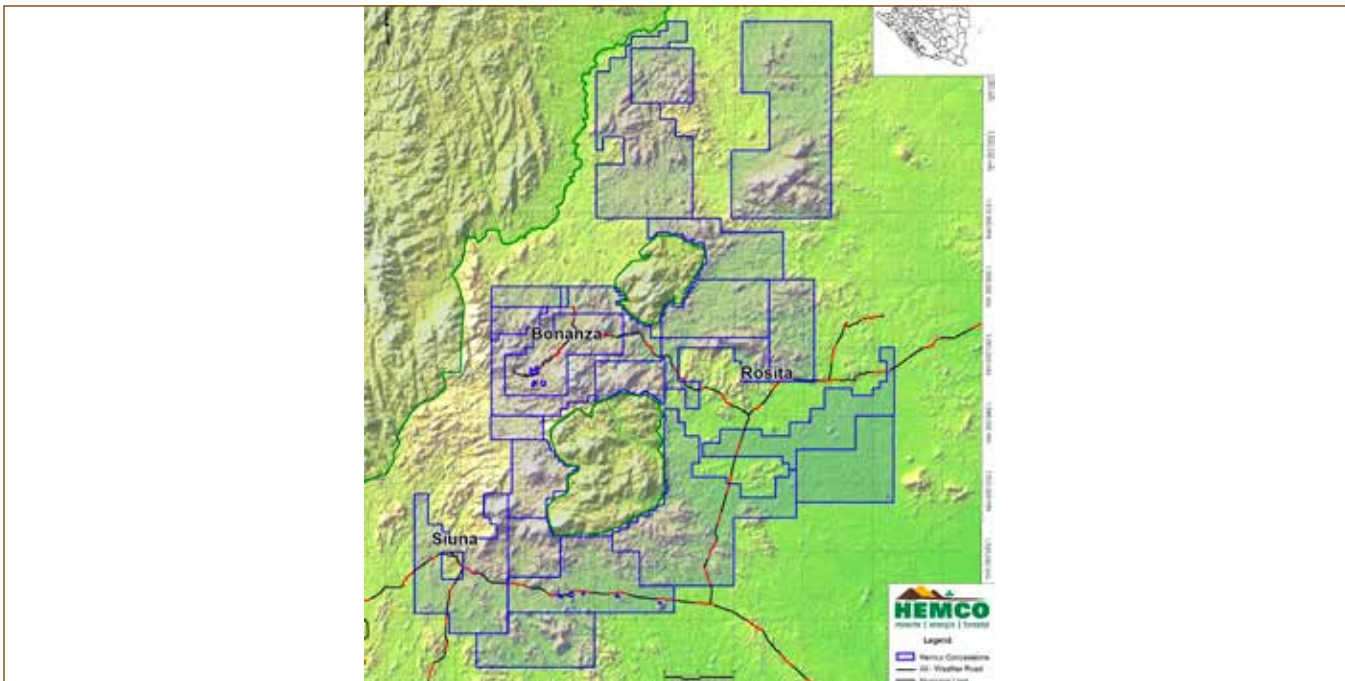
Mineros S.A.,¹⁵¹ raising questions about Calibre’s acquisition of the Bonanza mine. Calibre continues to operate mining concessions in Bonanza, with the Borosi concession today covering 87,627 ha of the Mining Triangle.¹⁵²

FIGURE 2: CALIBRE MINING CONCESSION MAP, AS OF JANUARY 23, 2019



Source: Calibre Mining Corporation¹⁵³

FIGURE 3: HEMCO NICARAGUA S.A. CONCESSION PACKAGE, 2013



Source: Hemco Working Together: Industrial & Artisanal Mining, 2013



In March 2013, Colombia’s largest gold producer, Grupo Mineros S.A., reportedly acquired 90 percent of Hemco’s mining assets in Nicaragua¹⁵⁴ for US\$96.8 million¹⁵⁵ and owned the full company by 2018, now called Hemco Nicaragua S.A.¹⁵⁶ In 2017, Toronto-based Royal Road Mineral announced a 50-50 strategic exploration alliance for mineral exploration with Hemco Nicaragua S.A.¹⁵⁷ – gaining access to the highly prospective Golden Triangle region.¹⁵⁸

Between 1998 and 2017, the Hemco concession appears to have changed hands at least seven times, with mining concessions increasing in size from 12,400 ha in 1998 to nearly 200,000 ha as of early 2020.

In 2013, Hemco Nicaragua S.A. reported 26 exploration concessions totaling 269,400 ha, including 12,400 ha mining concession awarded in 1994 for 50 years.¹⁵⁹ In 2014, parent company Mineros S.A. listed Hemco as the owner of 262,205 ha of mining concessions in the North Caribbean Coast.¹⁶⁰

In January 2020, Hemco Nicaragua S.A. listed 197,935 ha of mining concessions in Bonanza, with 12,413 ha for exploitation.¹⁶¹ A 2019 government spreadsheet of active and solicited mining concessions¹⁶² across the country lists Hemco’s total issued concessions as 190,605 ha.

Variances between the reported size of Hemco’s concessions and confusing details of the sales and purchases by different mining corporations raise questions around consultations and required approval from the local communities. Per Articles 12, 16, and 17 of Law 445, the Regional Councils and the Indigenous Territorial Governments (GTI), in consultation with the communities, are responsible for authorizing the entry of megaprojects such as mining concessions, in the autonomous territories. Additionally, 25 percent of taxes generated from extraction of resources must be transferred to the territorial government and 25 percent to the regional government to ensure a share in gains derived from the natural resources for local communities.

TABLE 2: MULTI-COMPANY ROUND OF MUSICAL CHAIRS ON THE SIZE & OWNERSHIP OF THE HEMCO CONCESSION

Company	Year	Reported Size of Concessions (Exploitation & Exploration)
Hemco Nicaragua	1994	12,400 ha
Greenstone Resources	1994	12,400 ha
Hemco Nicaragua	1998	12,400 ha
RNC Gold Inc.	2003	N/A
Yamana Gold Inc.	2006	N/A
Calibre Mining Corp.	2009	70,976 ha
Grupo Mineros S.A.	2020	197,935 ha

“We [Sandinista government and mining companies] work together, you know? If there’s a problem we sit down and we solve it and that’s a huge difference. This is by far – and you can talk to any mining company in Central America – this is by far the best place to operate.”

– Randy Martin, founder and CEO, RNC Gold Inc. and developer of Hemco Nicaragua ¹⁶³

The Oakland Institute reached out to the Nicaraguan Minister of Energy and Mines, Salvador Mansell Castrillo¹⁶⁴ to enquire about Nicaragua’s application of ILO Convention 169 and laws 445 and 28 in the RACCN, specifically in

relation to mining concessions, land titling, and community participation in the authorization of natural resource extraction projects. Despite repeated requests, no response was received.



TABLE 3: LIST OF HEMCO NICARAGUA S.A. CONCESSIONS

Concession	Area (hectares)	Location
Bonanza	12,269.75	Municipality of Bonanza, RACCN
Monte Fresco 1	64	Municipality of Rosita, RACCN
Monte Fresco 2	40	Municipality of Rosita, RACCN
Monte Carmelo 1	51.55	Municipality of Rosita, RACCN
Monte Carmelo 2	103.1	Municipality of Rosita, RACCN
Bonanza H-I	16,184.25	Municipality of Bonanza, RACCN
Hemco Bonanza-II	5,105.43	Municipality of Bonanza, RACCN
Hemco Bonanza-III	2,625	Municipalities of Bonanza and Siuna, RACCN
Hemco Bonanza-IV	10,773.43	Municipalities of Bonanza and Rosita, RACCN
Hemco Bonanza-V	2,996.50	Municipality of Bonanza, RACCN
Hemco Bonanza-VI	7,737.03	Municipalities of Siuna and Bonanza, RACCN
Hemco Siuna-I	17,874.12	Municipality of Siuna, RACCN
Hemco Siuna-II	6,173.71	Municipality of Siuna, RACCN
Hemco Siuna-III	19,775	Municipality of Siuna, RACCN
Hemco Siuna-VI	12,250	Municipality of Siuna, RACCN
Hemco Rosita I	9,750	Municipality of Rosita, RACCN
Hemco Rosita IV	13,750	Municipality of Rosita, RACCN
Hemco Rosita V	28,927.87	Municipalities of Rosita, Bonanza and Siuna, RACCN
Hemco Rosita VI	13,644.80	Municipality of Rosita, RACCN
Hemco Waspan I	25,301.57	Municipalities of Waspan and Bonanza, RACCN
Hemco Waspan II	35,308.20	Municipalities of Waspan, Rosita and Bonanza, RACCN
HB-5	2,800	Municipality of Bonanza, RACCN
HB-VI	300	Municipality of Bonanza, RACCN
Hemco RB-I	11,700	Municipalities of Rosita and Bonanza, RACCN
Hemco-RB-II	6,700	Municipalities of Siuna and Bonanza, RACCN

Source: Mineros S.A. Informe Financiero 2014





A Miskitu father recounts murder of his son by colonos

Living with Fear and Misery

" I am ██████████ ██████████. I lived in Polo Paiwas, but my community was burnt down by the colonos and I had to move to Klisnak.

The evening of October 29, 2015, my son, ██████████, went to the farm with another young man to get bananas and plantain. On the way back, colonos caught them in a surprise attack and started shooting. I am told that my son tried to get away but he was shot from the back. The other man was shot in the stomach. The colonos left thinking that both were dead but the other boy crawled back to the river and took a dori to the village.

After shooting our children, the colonos came to the village and burnt down homes of most families. My son was found dead – shot in the back and his head. I am now left with his shirt and his cap with a hole where the bullet went through. I went to the police in Waspam and in Bilwi but they say that they cannot take any action unless ordered by the national police. President of the Regional Council, Yanera Allen, asked to meet me. But when I went to see her, I was told that she had been called away to an urgent meeting by the national government. The police told the court that they protect the community. But that is a lie. They did not even investigate my son's killing as if he is a nobody. He left behind his two little girls – who were one and two years old when their father was killed. The other man was taken to the hospital in Waspam and we even brought the police there, but they made no report.

I now survive with very little from the land I rent in Klisnak. I work for other people but there is no money to live on. I live in an old house – the zinc roof has holes – and my granddaughters and I are left to face this rain."⁶⁵





Pangas, wooden boats used by the Indigenous, for their livelihoods on Rio Coco

Ryan King, Vice President for Corporate Development and Investor Relations at Calibre Mining Corp, said in an interview, “As long as you can work very closely with these communities, and we have been closely working with these communities for a number of years now, you build up long-term relationships. It’s really taking the time and educating, talking about socio-economic benefits, working with local communities on a daily basis really... For drilling, you need to go through consultation with community. You need to apply for permits for drilling. They need to come out and check the sites. We work with the communities, regulators, making sure that we’ve done all of our consultation work and CSR work.”¹⁶⁶

The Oakland Institute reached out to Ryan King and Calibre’s CEO, Russell Ball, to better understand the process for consultations and consent since the acquisition of the NEN property from Yamana Gold (then listed at 70,976 ha) to its current concession listed as covering 87,627 ha of the Mining Triangle and if this concession included the original 12,400 ha of Hemco concession. Mr. King did not keep the planned phone appointment and the company did not provide a response to the questions sent by email. The Institute also reached out to MARENA to understand the process by which the original size of the Hemco concession changed – starting with 12,400 ha in 1994 to Calibre’s current 87,627 ha and Hemco Nicaragua S.A.’s 197,935 ha in January 2020. No response was received. The Institute also made several efforts to contact Randy Martin through several mining and forestry businesses he is associated with, but calls and emails were not answered.

In addition, prior to any type of mineral exploration, an environmental permit is required from the regional government, with an exploration plan with proposed field work, timeline and cost estimate submitted to the Secretary of Natural Resources (SERENA) of the RACCN. The civil

society and local communities assert that transnational corporations, through the corruption of traditional and national authorities, have managed to secure large concessions for gold mining with devastating impacts on the communities and their environment.¹⁶⁷ Consequently, the autonomy statute (Law 28) and communal lands law (Law 445) are only empty promises by the country’s economic and political elites, who have allowed transnational corporations to control and exploit natural resources that are supposed to be controlled by the Indigenous and Afro-descendants.¹⁶⁸

“With the GTI [Indigenous Territorial Governments] they try to replace the community authority system. They want people to listen to the GTI, but they are not from the town. In RAAS and the RAAN, the GTIs are usually politicized bodies, as are the Regional Councils. There are examples where the authority is usurped by candidates promoted by the FSLN, in open opposition to the leaders of the communities. Unpunished murders of community members or deaths from dubious causes, which are hardly mentioned in the national press, indicate the seriousness of these conflicts. There are cases where the Regional Councils allow mining and oil exploitation, despite open opposition from communities.”

– Community syndic of the Mayagna Musawas community, Mayagna Sauni As territory¹⁶⁹



BOX 3: LAND DEFENDERS AT RISK

Government backing of industrial mining and support to quash opposition is rampant all over Nicaragua, not just the RACCN.

In 2013, hundreds of artisanal miners, demanding compensation for the potential loss of their livelihoods, blocked access to the city of El Cafetal to protest Canada's B2Gold Corp's expansion of its La Libertad and Santo Domingo operations in the central region of the country. The police fired tear gas and rubber bullets and arrested over 40 protesters.¹⁷⁰

In 2014, over a thousand people from communities impacted by mining projects were detained to prevent them from joining a march for the defense of the environment, as the government opened its doors to foreign investment through the first International Mining Congress in Managua. These included the 36 communities of the municipality of Rancho Grande, who afraid that the environmental impact of the extractive activity would impact the production of coffee and cocoa which provides employment and a sustainable local economy, had publicly rejected the B2Gold's El Pavón mining project. In the town of Santo Domingo, 500 people were detained by the national police to prevent from participating in the walk. Community members, opposed to the El Jabali mining project, also owned by B2Gold, without prior consent from the population since 2012, were not given permission to leave the town – in violation of Articles 53 and 54 of the Constitution guaranteeing freedom of movement and expression.

In November 2018, riot gear police carrying high-caliber weapons swarmed the town of Santa Cruz de la India.¹⁷¹ The community was preparing to meet with the Compliance Advisor Ombudsman (CAO) of the International Finance Corporation (IFC) to assess complaints against an IFC-funded gold mine, owned by UK-based Condor Gold, for proceeding without proper community consultation amidst allegations of water contamination, displacement of more than 300 families, and violation of human rights.¹⁷²

“The government identifies mining as a key part of the economy...within one month of submitting permit applications for two feeder pits in January, government representatives from three ministries all visited the project. The government couldn't be more supportive.”

– Mark Child, CEO, Condor Gold¹⁷³

Members of Santa Cruz de la India Communal Movement, the main local opposition to Condors's mining project, alleged that the company was trespassing on community owned land obtained through illegal means for exploration. To quash the struggle, La India Gold SA – a subsidiary of Condor Gold – brought charges of property destruction against seven community leaders. The charges were eventually dropped, but intimidation continues.¹⁷⁴ Against this backdrop, MARENA granted the company the environmental permit for development, construction, and operation of a processing plant in August 2018,¹⁷⁵ as nationwide protests calling for a democratic change in the country were violently put down.



Our Families Have Been Torn Apart by the Violence

"In 2015, when we [the Miskitu community in Wangki Li Aubra in Polo Paiwas] were warned about the colonos, it was decided that the men will stay to protect homes while the women and children will leave for the farm in the forest.

At the farm we learnt that the settlers attacked our men who had stayed behind – killing one – and our homes were burned down. We fled the farm and with babies on our backs, we walked for three days in the bush under heavy downpour of rain. This is how the 12 displaced families from Polo Paiwas arrived in Wiwinak as refugees.

In 2016, I went to a farm with women and children from Wiwinak, so I could get food in exchange for work. The colonos arrived with their guns pointed at us. Women started crying. They wanted to know if there were any men with us, or if we had arms. There was only one gun which they took away and then asked for food. They killed a sheep and we had to spend the night at the farm. We cooked the sheep for them, boiled cassava, made coffee. I cannot tell you how many colonos were there, but each had two guns. The sheep was over 100 pounds and yet the food was not enough. There were so many of them.

When one of our boys jumped out of the window to run and warn the community, they shot at him but missed. In the morning, one of the colonos warned the others that the villagers were coming, so they hid near the creek to attack. Only two of our people came but said that 60 men were on their way. Afraid that a large number of community members were arriving from Wiwinak, colonos left that day. It has been almost three years but we have not returned to the farm.



Displaced community member from Polo Paiwas

Life is hard for everyone, but far worse for the refugees. The people of Wiwinak can no longer go to their farms because of the colonos, so we cannot get any work as well. We now work in the village and earn one meal a day. We live in the community house, which is not safe. We suffer from malaria, lack of food, and our children are sick. Our men went back to Polo Paiwas to check on the farms. But they have been taken over by the colonos who have cut down the forest and burnt our homes. They are building new homes for themselves.

We have been forced to send our children away to families in Bilwaskarma. Our children are cooking and cleaning for the others so they can earn money to come see us. I have not seen my seven and 13-year old for three years. Our families have been torn apart by this violence."¹⁷⁶



Chainsaw and AK-47 Rifle: Decimation of Indigenous Lands by Logging Companies¹⁷⁷

Nicaragua's 76 percent forest cover in 1969¹⁷⁸ was down to only 25 percent in 2018.¹⁷⁹ High rates of deforestation—estimated to be 50,000 - 70,000 ha per year¹⁸⁰—have decimated the forests and paved the way for the expansion of the agricultural frontier, cattle ranching, and mining operations into the Caribbean Coast.

The majority of Nicaragua's primary forests are found along the RACCN and RACCS – with RACCN alone containing 43.4 percent¹⁸¹ of all of the country's forests – and play an inextricable role in Indigenous lives and livelihoods. Protected natural resources in Indigenous territories, according to Law 28 and Law 445, must be managed jointly by the corresponding Indigenous government and the relevant state institutions. However, thousands of illegal settlers have clear cut precious rainforest to establish cattle ranches and lumber operations – with devastating impacts to the environment and Indigenous land rights.¹⁸² Corporate logging has likewise impacted the Indigenous – the most high-profile example was the concession granted to Korean-based SOLCARSA on traditional Awas Tingni lands.

Blatantly ignoring the climate crisis and mass deforestation

in the country, PRONicaragua, the government's official Investment Promotion Agency, advertises Nicaragua as a country with nearly an endless supply of "suitable" land for forestry projects – with over 3.5 million ha available for use.¹⁸³ The government seeks to increase investment in the sector, and as with mining, offers tax incentives and a legal framework to "achieve a critical mass of 120,000 ha" of forestry plantations.¹⁸⁴ Various financial and legal instruments have proven to be successful, with investments in the sector totaling US\$100 million between 2011 and 2017.¹⁸⁵

Incentives for the forestry and mining sectors are relatively similar. Just like the mining Law 387, the Forestry Incentives Law specifically allows any type of business with investments in forestry plantations to deduct 50 percent of the amount invested for "income tax" purposes, as well as exemption from property taxes.¹⁸⁶ Additionally, investment in forestry plantations was made more attractive with the 2003 Law 462 (the Conservation, Promotion and Sustainable Development of the Forestry Sector Law), which allows a 100 percent deduction of income tax when land is designated for reforestation or forestry projects.¹⁸⁷

FIGURE 4: CURRENT LAND USE, INDIGENOUS/AFRO-DESCENDENT TERRITORIES & PROTECTED AREAS, NICARAGUA



Source: Forests of the World



BOX 4: HEMCO'S FORESTRY INVESTMENT

Along with mining, Hemco is involved in forestry projects with both teak and cocoa plantations in Siuna and Bonanza through the companies Norteak Maderas S.A. and MLR Forestal de Nicaragua, S.A., whose chairman and CEO is previously mentioned Randy Martin, the corporate gold mining executive, who also sits on the board of Norteak Maderas S.A..¹⁸⁸

MLR Forestry was created by Hemco in 2012 to operate the Javier Chamorro Mora Forestry Project in Siuna – a commercial plantation for cocoa and teak. The initial size of the land deal was 4,200 ha,¹⁸⁹ with 2,384 ha planted by 2018. 32 different farms were acquired for the plantation,¹⁹⁰ and the company is still actively looking to acquire more land.¹⁹¹

In its 2015 general management report, MLR Forestry states that the areas acquired for the plantations were previously used “irrationally” for subsistence agriculture and the rearing of livestock.¹⁹² Although it claims that a prerequisite for land purchase is the “legal status of the seller’s property title,”¹⁹³ no specifics are offered.

In a region where violent land grabbing has been rampant for years and where the Nicaraguan government has proven unable to implement laws ensuring Indigenous land rights, it is concerning that a number of international institutional financiers are supporting the projects. In December 2019, Finnfund, Finland’s “development financier,” provided US\$10 million for the expansion project of teak and cocoa plantations. While the stated plan is to “sell most of its certified teak through international traders to Indian and other Asian markets,”¹⁹⁴ Finnfund misleadingly lists fight against deforestation and forest degradation as a “development” impact of its support, along with carbon capture; promotion of fauna through established corridors; promotion of formal employment opportunities; equal opportunities to women.¹⁹⁵ Justifying its financing, Finnfund’s Environmental and Social Adviser Harold Gordillo claims “Finnfund has paid special attention to the environmental and social risks related to land acquisition, presence on Indigenous populations and biodiversity management as MLR plans to expand its planted area by another 1,900 hectares to reach a total area of approximately 4,500 hectares.”¹⁹⁶

In August 2019, Netherlands Development Finance Company (FMO) also provided MLR Forestal a loan of US\$10 million.¹⁹⁷

Hemco also operates plantations in Siuna and Bonanza in partnership with Norteak Nicaragua S.A. – a private company primarily made up of Norwegian investors¹⁹⁸ – and together, they run under Norteak Maderas S.A.. Norteak’s operations in Bonanza began in 2008 with an initial purchase of 7,500 ha,¹⁹⁹ bringing Hemco’s total land in Bonanza – through MLR Forestry and Norteak Maderas – to 11,700 ha. In the case of Siuna, Norteak began planting teak in 2010 on land acquired through a combination of renting and purchasing of former farmland.²⁰⁰ Field research alleges that small communities surrounding the plantation have since dissolved entirely.²⁰¹

It is against this backdrop that Hurricane Felix ripped through the RACCN in September 2007, bringing widespread destruction to the region. In addition to the hundreds killed and tens of thousands of homes damaged,²⁰² the Category V storm affected over one million ha of forests.²⁰³ With record numbers of high value trees downed, the same storm that brought destruction to the lives of the Indigenous presented a potential boon for the logging industry. New logging

companies soon appeared – and with them, infrastructure projects that would aid *colonos* in Indigenous territories in the RACCN for years to come.²⁰⁴

One particularly noteworthy company is MAPIINICSA – *Maderas Preciosas Indigenas e Industrialies de Nicaragua* S.A. – which was part of the broader Simplemente Madera Group (SMP) holding company, under the direction of



a French national, Clement Ponçon. In 2008, the World Bank's private sector lending arm, International Finance Corporation (IFC), invested US\$10 million in MAPIINICSA and SMP, to assist in the harvesting and processing of the downed hardwoods for Forest Stewardship Council (FSC)–certified wood products, including furniture.²⁰⁵ The IFC disclosures note that the project involved the “acquisition of up to 13,000 ha of lands affected by the hurricane.” While these land acquisitions were described by the IFC as “of a ‘willing seller-willing buyer’ nature, and not involving any communal or Indigenous lands,”²⁰⁶ this was soon revealed not to be true. The 12,400 ha of land that were acquired by MAPIINICSA,²⁰⁷ reportedly for US\$4 million,²⁰⁸ were part of the traditional lands of the Awas Tingni that were formally titled in December 2008.

The MAPIINICSA land acquisition raises serious questions about the integrity of many of the institutional actors involved in land rights in Nicaragua. Reports allege that members of YATAMA, an Indigenous political party with close ties to the now-ruling FSLN, were behind the sale of the land to MAPIINICSA,²⁰⁹ violating the terms of Law 445.²¹⁰ Allegations of corruption regarding the case were lodged against CONADETI, Instituto Nacional Forestal (INAFOR), and a registrar working for the RACCN Regional Council,²¹¹ who was later dismissed on accusations of forging numerous documents allowing third parties to access Indigenous land.²¹² Complete disregard of Indigenous land rights by the international “development” agencies like the IFC is equally deeply disturbing.

The MAPIINICSA deal was eventually cancelled,²¹³ but permanent changes had already been made, including an access road leading to Awas Tingni and an airstrip that were both built by the company.²¹⁴ Communities on the ground allege that this infrastructure opened the doors to increased occupation of their traditional lands by *colonos* and others.²¹⁵

In addition to the concerning allegations regarding YATAMA and the role of government officials in deforestation, the Nicaraguan government has simultaneously changed or passed laws that enable and encourage the exploitation. For instance, although Nicaragua has been lauded for Law 445 and its landmark support of Indigenous land rights, the same year – in 2003 – Law 462 titled Forestry Incentives Law was passed by the Bolaños administration, to provide significant tax incentives for forestry plantations, including tax exemptions on 50 percent of profits, 50 percent on sale of land, import duties, and 100 percent income tax deduction for land destined for forest plantations.²¹⁶

Allegations of government corruption are only furthered by activities of a second noteworthy company, Alba Forestal, which also emerged in the wake of Hurricane Felix, with a mandate to aid in the clean-up efforts.²¹⁷ Unlike MAPIINICSA, which was foreign-owned, Alba Forestal is a Nicaraguan–Venezuelan company with alleged close ties to President Daniel Ortega and the ruling FSLN party,²¹⁸ operating as part of the scandal-ridden Alba consortium.²¹⁹

In 2006, Ortega, in partnership with Venezuelan President Hugo Chávez, established Albanisa (Alba de Nicaragua S.A.) as a means by which Nicaragua would receive cheap oil from Venezuela, with 50 percent of the debt paid up front within 90 days and the other 50 percent paid over a 23 year period with interest rates as low as 2 percent.²²⁰ The Venezuelan state oil company PDVSA also loaned 50 percent of the value of the oil to a private Nicaragua cooperative Caruna (Caja Rural Nacional) run by Ortega's party. This generous deal brought in about US\$580 million annually, which, according to economists, accounted for 34 percent of Nicaragua state revenue and 23 percent of export earnings.

President Ortega has come under immense criticism for his lack of transparency regarding Albanisa. Noted in a 2018 US Fiscal Transparency Report, “allocations to and earnings from state-owned enterprises were included in the [national] budget on a net basis, but most state-owned enterprises, including Albanisa, a joint venture of the Nicaraguan and Venezuelan state oil companies, have not been subject to audit.”²²¹

Leaked internal documents, referred to as the “AlbaLeaks” were accessed by the Nicaraguan news outlet *El Confidencial*, which, over the course of three reports, documented some of Albanisa's activity.²²² Among many interesting highlights, the reports outline how the loaned funds, originally destined for addressing social needs, were split, with 38 percent spent on Sandinista social programs and the other 62 percent designated towards an investment portfolio.²²³ Overall, it is estimated that over US\$100 million was invested in the creation of private companies, including an oil rig, a port, and the forestry corporation, Alba Forestal, in 2009.²²⁴ Conveniently, Ortega passed Presidential Decree 48 just one year prior, which allowed the collection of trees felled by Hurricane Felix in the RACCN for export.²²⁵

In efforts to maintain control and ensure Alba Forestal profits, Ortega changed Law 290, “Organization Law, Jurisdiction and Procedures of the Executive Branch,” in 2014 to give himself power over INAFOR, thereby taking





Tree plantation

over all of the state's various forest management functions, including the power to decide which forest-based industries and logging companies operate where, enabling him to prioritize and favor Alba Forestal.²²⁶ That same year, he also passed decree 44:4.3 which exempted certain species of trees in registered plantations, including cedar, pine, and mahogany, from the prohibition of timber export which was passed as part of Law 585 in 2006.²²⁷

Whereas the company is run by members of the Ortega family including the wife and sons of the President, its owners are government officials from either Nicaragua or Venezuela.²²⁸ This has caused deep concern among Nicaraguans, who fear that the outstanding US\$3.2 billion debt owed to Venezuela will fall on the public, especially as oil supplies in Venezuela drop, prompting Venezuelan President Maduro to claim returns.²²⁹

Recent reports allege continued illegal logging in the Bosawás by Alba Forestal²³⁰ with several Indigenous groups having publicly denounced the company.²³¹ A widely reported incident took place in 2013, when logging trucks in the region were detained to have their documentation checked.²³² The trucks belonging to Alba Forestal were soon released,²³³ some report with police and military escort,²³⁴ despite allegations that the Alba trucks had the same

documentation as other trucks that were not let go.²³⁵ As with MAPIINICSA, Alba Forestal has reportedly changed the landscape forever through the creation of an access road, this time into the Bosawás Reserve.²³⁶

Alba Forestal continues to lack transparency, their activity especially difficult to track as their portfolio is supposedly referred to as "N & H Wood Products S.A." online,²³⁷ which claims to be "the biggest supplier in tropical hardwood in Nicaragua."²³⁸

Despite serious concerns and allegations surrounding Ortega administration's role in deforestation, Ortega's Private Secretary for National Policies, Dr. Paul Oquist Kelley, was promoted in 2018 as co-chair of the Green Climate Fund (GCF), a financing group chartered by the United Nations as a means to support developing countries as they respond to climate change.²³⁹ In response to a 2018 Scientific American piece²⁴⁰ questioning Oquist's prominent position, Oquist wrote a rebuttal opinion piece²⁴¹ in which he deemed the accusations "unfounded," "biased and unbalanced," and likened them to the rhetoric used by Nicaraguan citizens who denounce Ortega. His response calls attention to the intimate connection between Ortega's presidency and his exploitation of the forestry sector, the former relying heavily on the finances of the latter.



BOX 5: AIDING AND ABETTING – ROLE OF THE INTER-AMERICAN DEVELOPMENT BANK (IDB)

The Inter-American Development Bank (IDB) maintains an active loan portfolio of US\$825.5 million in Nicaragua.²⁴² Given the IDB's share of Nicaragua's external public and multilateral debt was 31 percent of total GDP in 2015, it considers itself the country's most "important multilateral cooperation agency."²⁴³

The IDB plays a significant role in influencing policies around agriculture, forestry, and rural development, with important implications for local communities. IDB's March 2018 report,²⁴⁴ which analyzed the forestry sector in Nicaragua, recommending the following policy adjustments to stimulate investment.

- Repealing Law 585 (Prohibition Law for the Cutting, Exploitation and Commercialization of Forest Resources) that banned the commercialization and use of several tree species;
- Revisions to Law 462 (the Conservation, Promotion and Sustainable Development of the Forestry Sector) to improve the flexibility for the thresholds for the exploitation and use of forest resources;
- Establishment of an integrated industrial park model that combines forestry projects with lumber production and a furniture supply chain;
- State investment of US\$141 million into the forestry sector in the form of subsidies and bonuses;
- A fixed income tax deduction of 30 percent, up to US\$34 million, for investors in forestry.

Among its many prescriptions, the report cites several barriers to increasing investment, but specifically singles out technical standards and the permit process as the main factor contributing to high transaction costs and low investment rates. It recommends the decentralization of the forestry sector administration to reduce institutional inefficiencies and suggests PRONicaragua, – the state's investment and export promotion agency – to act as an intermediary between communities (particularly Indigenous communities) and private investors. The report stresses the mutual guarantee of "corporate social responsibility" on behalf of companies and the honoring of long-term contracts by affected communities.²⁴⁵

The IDB recognizes that the overwhelming majority of forest cover in Nicaragua is located in the autonomous regions,²⁴⁶ but lacks insight into the legal, social, and cultural implications of this reality. The instruments proposed are primarily fiscal, favoring private actors to drive decision-making. Regionally decentralizing forest management would not automatically translate into increased agency for communities, and compelling them to "honor" contracts in exchange for a company's socio-economic programs is not in their interests. The IDB only reveals a pronounced bias for easing restrictions on the exploitation of natural resources in the country.



Ranching Away Indigenous Land Rights

Still Waiting...Three Years Later

"My name is [REDACTED] [REDACTED] and I live in Esperanza Rio Wawa. Morning of December 17, 2015, I was working in my farm with my husband, [REDACTED] [REDACTED] [REDACTED], and our two sons, [REDACTED] and [REDACTED].

We were planting beans when the colonos arrived. They beat my husband with the butt of a gun and tied his hands behind his back. They wanted to know if our community had guns and bullets. And then they left with him and me. They walked us far.

They tied my husband to a tree. There were too many flies. They slashed my hand when I tried to keep the flies away from him. Some of the colonos then left to go to the community. They returned around 9 pm and told me to go back to the village with my sons but that my husband will not return with us. They gave me a letter for our community saying "if you want her husband, come to us." I returned without my husband.



Scar on the hand of the interviewee, whose husband was kidnapped by the colonos in 2015 and remains missing

I could not get help since my community was in hiding after two people had been killed in the conflict with the colonos. Today almost three years later [November 2018] I have no news of my husband, though we looked everywhere. I have not asked the police where my husband is. Police never resolve our problems, so the Indigenous never go to them. I am raising my children by myself. It is very hard.

I am waiting for my husband. I don't know if they killed him or if I see him again. My sons talk about their father. Since December 17, 2015 I have not returned to the farm. I look to farm on a small piece of land. But the colonos have taken over all the farms. There is very little left."²⁴⁷



Cattle ranching has been in Nicaragua for over four hundred years – arriving with the Spanish conquerors – and soon becoming a key part of the country’s culture and economy. The 1960s and 70s saw the largest increase in cattle ranching. With support from the World Bank, Inter-American Development Bank (IDB) and the US Agency for International Development (USAID), the agro-export industry in Nicaragua expanded substantially to meet consumer trends in the United States.²⁴⁸ Financing was provided for government promoted programs to encourage the growth of the “national herd,” the expansion of the pasturelands, and the agroindustrial development of cattle products. Between 1963 and 1971, cattle grew by 46 percent, accompanied by a 31 percent growth in the total area of pastures.²⁴⁹

The sector was negatively impacted by the civil war in the 1980s. “Widespread cattle rustling decimated the herds; thousands of cattle were stolen and driven to Honduras and Costa Rica. The main areas of cattle production also became the main zones of military conflict.”²⁵⁰ In the 1990s, with the end of the war and the opening of markets, cattle industry recovered.

Ganadería, the word for ranching in Spanish, is derived from the verb *ganar* which means “to win.” Cleared lands brought into “productive” use for farming or ranching, are known as *mejoras* or “improvements,”²⁵¹ – an euphemism that legitimizes cutting down/burning of forests and land grabs of Indigenous lands. The first wave of migrants clear trees and exhaust the fragile tropical soils with mix-cropped cultivation.²⁵² After the land has degraded, it is either abandoned or sold to small-scale cattle ranchers. The campesinos then move on, repeating the process, paving the way for ranching not far behind them. The chain continues as large-scale ranchers consolidate their land holdings by purchasing from smaller ones. And, in the process, the Indigenous are dispossessed of their lands and livelihoods.

To boost the industry, large areas of the agricultural frontier – country’s forests including in the autonomous Caribbean coasts – were opened to the ranchers. The state development bank provided credit to cattle producers who could show “improvements” on their ranches, which meant cutting down trees and burning forestlands for pasture. New actors appeared in the business²⁵³ – disarmed former Contras and Sandinistas, and poor farmers from the Pacific who migrated to the RACCN with hopes for new beginnings on the lands of the Indigenous.

Growth for Export

Today Nicaragua has the largest cattle-raising industry in Central America. The amount of livestock in the country doubled over the past 20 years – with heads of cattle increasing from 2.6 million in 2001 to 5.5 million in 2019 – using some 3.26 million ha of natural and improved pastures.²⁵⁴ This growth in the sector is driven by exports.

In 2017, frozen bovine meat was Nicaragua’s fifth largest export, valued at US\$302 million and accounted for 5.7 percent of the total export economy.²⁵⁵ While being the 30th largest producer of the 55 countries that the USDA tracks for beef production, Nicaragua exports the largest percentage of its total production. In 2018 it produced around 165,000 tons of beef – about 95 percent of which was destined for exports.²⁵⁶

United States is the largest market – 59 percent of Nicaragua’s beef exports were to the US in 2017.²⁵⁷ Other primary destinations are Central American countries – El Salvador, Guatemala, and Costa Rica – in addition to Venezuela, Japan, and Thailand.²⁵⁸ In recent years, Mexico has become a key player in the sector. In 2015, Mexico’s largest beef producer,²⁵⁹ Grupo Viz de México, established processing plants for its Nicaraguan brands, SuKarne (beef) and LALA (dairy),²⁶⁰ with financing from multiple institutions, including the Inter-American Investment Corporation, Rabobank Mexico, Bancomext, and Bladex.²⁶¹ With the plants operational, Nicaragua’s fresh bovine meat exports to Mexico have increased – accounting for 20 percent in 2017, compared to just 0.76 percent in 2014.²⁶²

This growth in the sector, driven for exports, has come not only at the expense of Nicaragua’s forests but also Indigenous land rights.²⁶³

“They are cutting lumber and growing grass for cattle which they bring from the Pacific. They fatten them here and they make their own roads to travel back with the cattle. . . leaving our homes, families, farms, and forests devastated.”

– Community member from Esperanza Rio Wawa²⁶⁴



Survival is a Big Concern...

" I have lived here [in Wiwinak] as a refugee from Polo Paiwas for three years now. But I was working in the farm, four hours from here, and stay there for three-four days. Since October 10 this year [2018], I have not returned.

Between 8-10 am that day, seven men appeared. They had four small pistols and two AK47 rifles. My wife and my three sons were harvesting rice. The colonos surrounded us and wanted to know if I was with Steadman Fagoth²⁶⁵ when he attacked the settlers in Murubila.²⁶⁶ They were taping the conversation on the phone.

They asked me to sell one manzana (.70 ha) of my land and promised me a gun and drugs. I told them that this was not possible since this is communal land. They said that President Ortega is killing their people in the Pacific and taking over their land. This is why they had moved to the RACCN. They assured me that I do not have to run and that we could work together, if they could take one half of the land. They asked to be introduced to the territorial president so they could purchase land. They also asked if the Indigenous men had guns and told me to not tell the neighbors about the incident. I left without my rice harvest and without planting the cassava. And I have not returned. I rent a house in Wiwinak after being displaced by the colonos from my home in Polo Paiwas. But without the ability to sell my produce I don't know how I will pay for it. My whole family with sons and grandchildren is here – in total seven children and three grandchildren. Survival is a big concern as we share whatever we brought with us. I cannot find a job and my wife is sick."²⁶⁷

Acquiring land in the RACCN and RACCS is cheap and profitable²⁶⁸ – attracting thousands of farmers and herders from the Pacific coast and the center of the country – who have moved to the autonomous lands, after being displaced by government “development” projects or after selling their properties to large livestock producers.

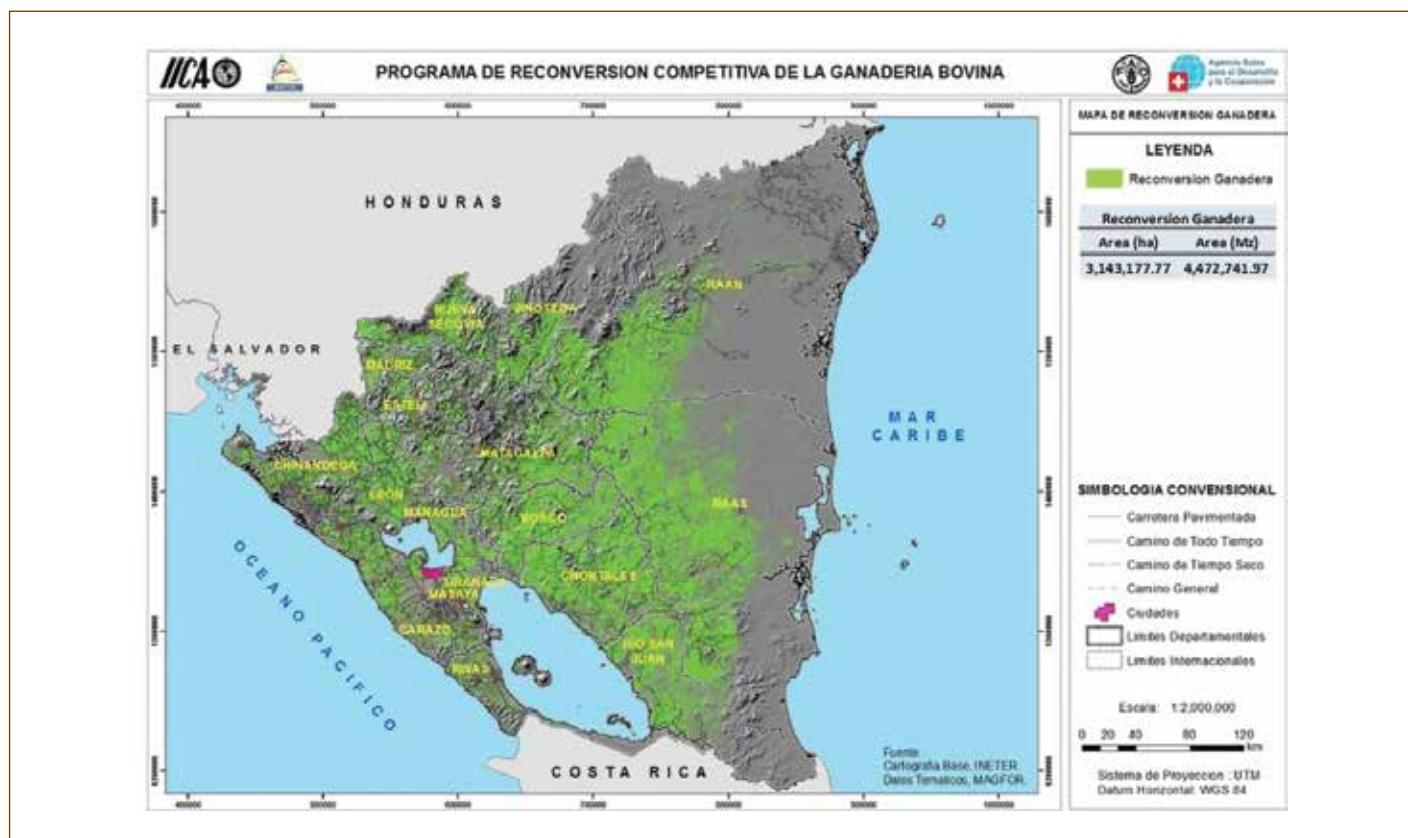
Between 1987 and 2010, more than 564,000 ha of the forest in the Bosawás reserve was cleared and replaced with grasslands and cultivated areas, driven by the internal migration of people from the Pacific coast and the central area of the country looking for fertile land and space.²⁶⁹ As mentioned, the number of *colono* families living in Mayagna Awas Tingni territory on the outskirts of the reserve, has increased from 40 in 2005 to over 800 in 2015.

Illegally Raised in the Reserve and Exported

The absence of a nationally coordinated traceability system for cattle and a supply chain involving multiple intermediaries and contractors makes it difficult to estimate the extent of livestock being reared on Indigenous land in Nicaragua.²⁷⁰ Recent investigations, however, allege that much of the Su-Karne's cattle bought from the Rio San Juan area is raised and fattened in the Indio Maiz Reserve in the RACCS.²⁷¹ Similarly, the rapid expansion of the livestock industry is deforesting RACCN – Bosawás in particular – at alarming rates.²⁷² A map from 2014 shows the extent to which pasture has extended to the east into Indigenous and forested land.



FIGURE 5: LIVESTOCK PRODUCTION AREAS IN NICARAGUA



Source: UNEP DTU Partnership, 2018.²⁷³

TABLE 3: LOCATION OF CATTLE AND CATTLE PRODUCERS IN NICARAGUA

	Key Municipalities	Total producers	Number of animals	Percent within Department (animals)
RACCS	Cruz de Rio Grande	1,961	127,436	11.3%
	El Ayote	851	77,346	6.9%
	El Rama	3,475	212,962	18.9%
	Muelle de los Bueyes	1,743	102,816	9.1%
	Nueva Guinea	4,502	207,079	18.4%
	Paiwas	1,823	186,050	16.5%
	Other	4,838	214,622	19.0%
	Subtotal		19,193	1,128,311
RACCN	Bonanza	352	6,882	1.5%
	Rosita	966	32,521	7.0%
	Siuna	4,840	170,281	36.5%
	Mulukukú	1,689	136,851	29.4%
	Waslala	2,766	77,527	16.6%
	Other	3,127	42,201	9.1%
	Subtotal		13,740	466,263

Source: UNEP DTU Partnership, 2018.²⁷⁷



The autonomous regions are the departments with the highest concentration of cattle. According to the International Livestock Research Institute (ILRI), RACCN, RACCS, and the San Juan department (adjacent to RACCS) produce 46 percent of all Nicaraguan milk and beef.²⁷⁴ In 2012, according to the last national agricultural census,

there were 20,541 farms in RACCN over an estimated 342,617 ha.²⁷⁵ These included 13,740 bovine producers with 466,263 heads of cattle – making RACCN the department with the second highest amount of bovine animals (11.3 percent), after RACCS, which had 1.28 million heads of cattle (27.3 percent).²⁷⁶

We Gave Them an Opportunity and Our Confidence. But They Failed Us

"The problems started in 2012. Settlers would come into the communities, drink alcohol, shoot at the community members. They grew marijuana and would try to sell it to our youth.

They stole our cattle. They then started making parcels in community parcels. When we protested, they threatened to kill us. They stopped us from hunting saying it was their land. I was told, "if you come again, you will be killed."

As the traditional judge of the community, I went to meet with the governor and other authorities. But was told by Carlos Alemán and others that they cannot implement Saneamiento unless authorized to do so by the central government.

And then the settlers attacked Santa Clara in 2015. Before the attack, they had sent letters threatening the community that it will be a Red Christmas with a lot of bloodshed. When they attacked Wisconsin on December 17, 2015, we were ready. They had AK 47, Uzi and the community resisted with slingshots and machetes. But we were not taken by surprise like the other communities. We had three injuries and no deaths.

Today women and children have left for Bilwi and Waspam, so they can be safe, while men stay behind to resist. The conflict remains unsolved. We have stopped going to our farms. But we die of hunger and starvation. We are waiting for the government to implement Saneamiento. If the government does not act, we will have to take the decision to protect our land. This is our land and we will never give up. Government wants us to live together and cohabitate. We tried this earlier but the colonos see us as marginalized and disrespect us. We gave them an opportunity and our confidence. But they failed us.

We want our land back. Till that happens we have no peace or freedom. They have destroyed our land, contaminated our water, creeks, rivers and cut down our forests."

– A traditional judge at the community hearing, Santa Clara, November 2018



Miskitu Should Not Come Here or They Will be Killed

" My name is [REDACTED], and I am a Miskitu minister at the Catholic Church in the [REDACTED] community. I live with fear since receiving a death threat, so do not want to be identified.



A Moravian Church in Santa Fe

Colonos take over our farms, cut down the trees, and divide the land amongst themselves. They stuck a notice in our community stating: "This is private land. Miskitu should not come here or will be killed."

In 2014, the community elders decided to speak to the settlers peacefully and understand what brought them to the Indigenous lands and try resolve the issue. Three settlers told us that the government took their land to build the interoceanic canal and that they were told to move to the RACCN, where there is a lot of idle land. An ex-military man offered to sell them land here, saying that he had legal documents. The three settlers brought the legal papers to the meeting with us.

We told the settlers that they did wrong – this is Indigenous land and that they should find that man and ask for their money back. The settlers refused, saying that they were afraid of the seller who had around 40 armed men.

Over time we learnt the name of this man – Erasmo Flores – his name is mentioned in the reports that the government submitted to the court. But the government has refused to take action and respect Law 445, which recognizes communal property regime. Another man behind the scheme,

Dennis French, works for the government. There are several other settler leaders – all ex-military – who we know by nick names only – including Bota Blanca and Machilla.

On August 20, 2015, a commission comprised of the community members, including the President of the territory, went to Waspam to meet Alex Fernandez, Mayor from the YATAMA party²⁷⁸ and Carlos Alemán Cunningham, the governor of the region from the FSNL.²⁷⁹ Governor Aleman was not available, so we met with his deputy and asked for a hearing. We also met with the regional council, the National Commission on Demarcation and Titling, national police, office of the State's Public Attorney, and the army chief based in Puerto Cabezas. We presented in writing that the community cannot deal with the armed settlers and requested State's assistance in removing colonos from the Indigenous lands. When we returned, President of the Territory was called and scolded by the government for bringing community members to the officials given there are NO settlers. He was warned not to do this again. On September 5, 2015 the settlers attacked the community in Tasba Raya.

Today this criminalization continues with massive invasions of the farms and displacement of the communities. But the government officials have not come to investigate if invasions are our lies or truth.

We, the Indigenous have conserved our land, our trees, and forests. With the massive invasions we face, settlers are destroying our precious forests and cutting down mahogany that we left untouched for hundreds of years. These are being destroyed to plant grass for cattle. Colonos engage in large-scale cattle farming, Nicaragua's key export commodity. Perhaps this is why the government ignores the violence we face and refuses to move on our demand – Saneamiento Ya! (removal of trespassers now)²⁸⁰





A Miskitu child watching the recording of the hearing at the IACHR in Santa Clara

The Failed Revolution: Role of State Officials in Land Deals

The government imposes violence against our communities by means of settlers who invade ancestral territories, carrying out armed attacks, murders, kidnappings, rape, and displacement, producing refugees, most of whom are women, children, and people of old age. All this occurs in the face of governmental and institutional passivity, even complicity.”

– Brooklyn Rivera²⁸¹

Settling of the *colonos* in the Caribbean coast to exploit the area’s rich natural resources has been a strategy deployed by different administrations as explained in the report. But it is under the Ortega administration that the demand for *Saneamiento*, as guaranteed by national law, has been rigorously suppressed and undermined— not only through affording impunity to the settlers for their violence against the Indigenous, but also through direct involvement of government officials.

In recent years, allegations against several regional and FSLN (*Frente Sandinista de Liberación Nacional*) allied officials, including Carlos Alemán Cunningham (Coordinator of the Autonomous Regional Government of the RACCN), Waldo Müller Lacayo (President of Tasba Pri and previously, a regional FSLN councilor), as well as the late Adrián Valle Collins (Secretary of Tasba Pri),²⁸² have surfaced for illegal land sales to settlers in RACCN.²⁸³ In 2016, news outlet *El Confidencial* released copies of illegal land sales signed by the above officials.²⁸⁴

In 2016, a settler farmer in Tasba Pri, Ernesto Ordeñana Olivar, accused Waldo Müller, Valles Collins, and Salomon Flores Leterio, *syndic* of the community of Puente Kukalaya, of forcing him to sell 207 manzanas (146 ha) to another settler, Franck Picado.²⁸⁵ Reportedly, Ordeñana Olivar was to leave the land on Saturday, March 12, 2016, under Müller’s orders. Testimony collected by the Office of the Attorney General suggested “a new form of land trafficking, whereby old purchasers of Indigenous lands with help from communal authorities, were being displaced for new buyers. According to *El Confidencial* the complaint was not further investigated.²⁸⁶

On September 21, 2015, *mestizo* members of the Asociación de Agricultores y Ganaderos de Tasba Pri (Association of Farmers and Ranchers of Tasba Pri) held a press conference in the town of Sahsa. To dispel the perception of settlers being “invaders,” they claimed a widespread practice of public officials – including those from the Indigenous party – selling land to settlers and disguising the sales as permits to use the land. “We want to make public knowledge that



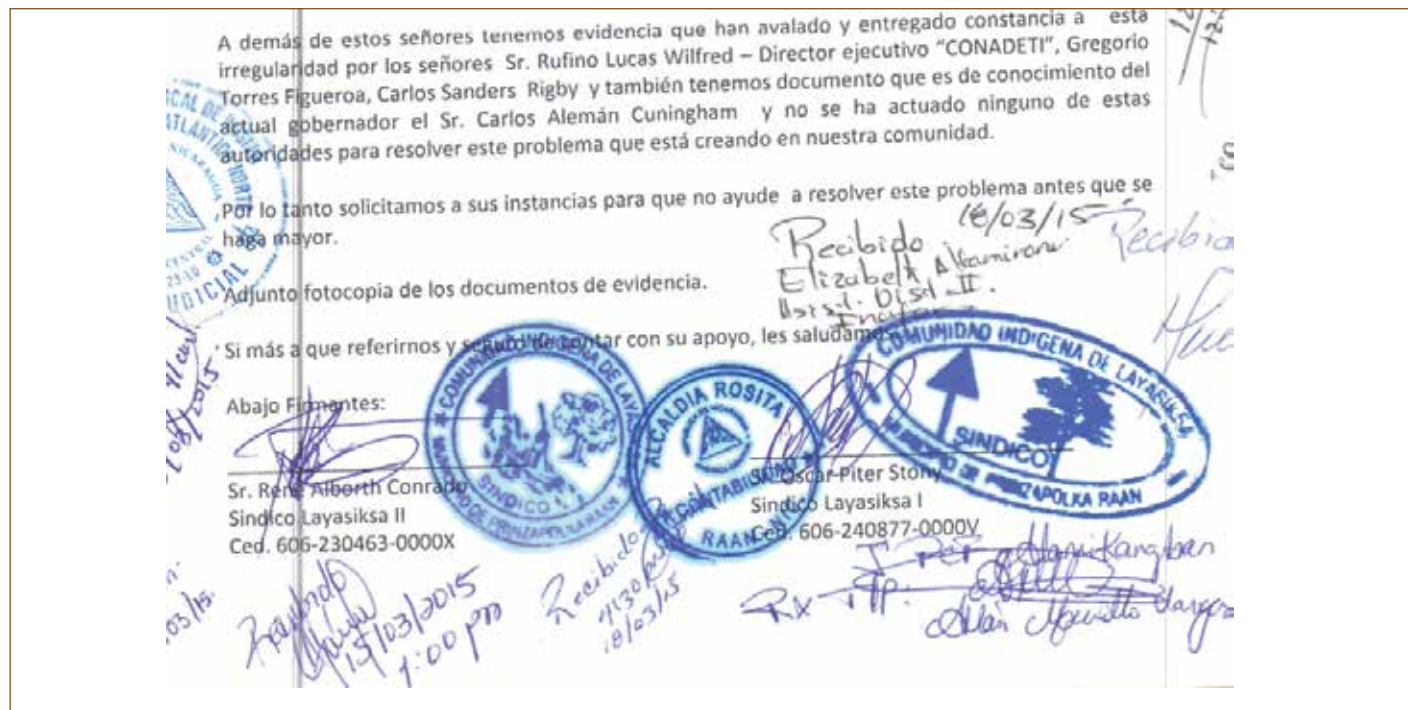
mestizos and producers are not usurping any territory, since those of us who live here have been endorsed by communal, territorial, and even regional authorities,” said a settler before dozens of others. He then asked for help to raise a file of more than 500 papers with signatures and stamps of Müller and Alemán.²⁸⁷

Indigenous communities maintain that no sales of private titles are legal under Law 445. They call for the arrest of all land title sellers and brokers, Indigenous or non-Indigenous. A March 2015 letter from the leaders of the Layasiksa I and II communities alerted a local judge about illegal sales of their lands by the community authority officials of Wasakin.²⁸⁸ Community leaders also provided documentation on the resettlement of ex-combatants in the Layasiksa territory, signed by Rufino Lucas Wilfred, Executive Director of CONADETI,²⁸⁹ along with a copy of a letter sent by Gregorio Torrez Figueroa, Department President of Coordinadora Nacional de Oficiales en Retiro, to Carlos Alemán Cunningham asking for his endorsement of the resettlement of ex-combatants in Danto Dos. Alemán did not take any action to prevent the takeover of Indigenous lands.²⁹⁰

In the course of over one year of research, the Oakland Institute obtained evidence of the role of officials in illegal sales of Indigenous lands. The most repeated name in the documents is that of Müller, president of the Tasba Pri Territory and formerly a Regional Councilor for the FSLN.

While Article 5 of Law 445 accredits the territorial authorities as “administrative bodies of the territorial unit that they legally represent,” and Article 10 allows the traditional communal authorities to grant “authorizations for the use” of the lands and natural resources in favor of third parties, they can only do so “as long as expressly ordered to do so by the Communal Assembly,” and they cannot give possession rights over ancestral territories. Despite this, Müller and Collins, on September 6, 2015 granted 300 blocks of land for life in the Pinares Tunga Tasba Pri sector to Justo Linares Obando, who lacked an identity card, and yet, the notary Rizo Torrez, carried out the transaction.²⁹¹

Additional documents obtained include letters from the FSLN and YATAMA officials, illegally granting land titles in various communities in the RACCN. Many of these documents involve the resettlement of ex-Sandinista or YATAMA combatants in the ancestral lands of the Indigenous. For example, a series of communications between September and November 2012, for instance, designate the community of Danto Dos in the Rosita Municipality for the resettlement of ex-Sandinista soldiers. These communications involve officials from all levels of the regional government, including Lumberto Campbell,²⁹² President of the *Comité de Desarrollo de la Costa Caribe* (Caribbean Coast Development Committee), considered Daniel Ortega’s “trusted man on the Caribbean coast.”²⁹³



March 2015 letter from the leaders of the Layasiksa I and II communities



BOX 6: A MASQUERADE OF JUSTICE, INDIGENOUS EMPOWERMENT, AND CONFLICT RESOLUTION

A prominent Miskitu – Myrna Kay Cunningham Kain – is celebrated internationally as having helped set the stage²⁹⁴ for the Law of Autonomy of the Indigenous Peoples and Ethnic Communities in 1987. The first woman governor of the RACCN following the revolution, Myrna Cunningham also served as the Deputy of the Autonomous Region of the North Atlantic Coast in the National Assembly.

Myrna Cunningham has had an illustrious career with prominent positions – Chair of the Permanent Forum on Indigenous Issues at the United Nations (UN) (2011-2012); Adviser to the President of the UN World Conference of Indigenous People; President of the Association for Women’s Rights in Development (AWID); Food and Agriculture Organization (FAO)’s Special Ambassador for the International Year of Family Farming; Chairperson of the Center for Autonomy and Development of Indigenous People (CADPI); Vice President of the board of the Latin American and Caribbean Indigenous People Development Fund; board member of the Global Fund for Women, The Hunger Project, and Nia Tero, among others.

However, questions abound about the role Ms. Cunningham has allegedly played in bringing credibility to the Sandinista regime and her role in undermining the land rights struggle of her people.²⁹⁵

Myrna Cunningham praises Nicaragua’s efforts in ensuring recognition of land rights for the Indigenous. “The land rights legislation covers almost 500 communities[.] The collective land rights act granted recognition of these communities through 23 titles (30 percent) of Nicaragua and they are managed jointly between 25 territorial Indigenous governments and Indigenous traditional governments in each community.”²⁹⁶

While the communities face kidnappings, killings, burning of homes, loss of farms and livelihoods, hunger, and lack of access to health care and sanitation, in a May 2019 interview, Cunningham focused on the advancements made in the health of the Indigenous communities in Nicaragua. “After the rights were recognized, communities started to become self-dependent again and diversified their production. They started producing rice, beans and maize, while in other months, they would focus on the cultivation of vegetables, the collection of seeds and fruits from the forest, and hunting and fishing.”²⁹⁷

In her 2019 interview, Myrna Cunningham suggested that the Indigenous are united with the *colonos* via their spirituality. “There was recently a meeting between Indigenous communities and non-Indigenous settlers, and the negotiations were centered around prayer. They solved their conflicts by emphasizing their spiritual connections and their shared concern for future generations.”²⁹⁸ Interviews with community members as well as their filings with the IA Court found that communities want to negotiate with the government, and not *colonos*.

However, regional officials such as the Mayor of Waspmam, Rose Cunningham, continue to pressure Indigenous communities to “dialogue” with *colonos* and “co-habitate” with them because they are “all brothers under God.”²⁹⁹ In her communication to the Oakland Institute, Myrna Cunningham, also emphasizes the importance of negotiations between the Indigenous and the *colonos*,³⁰⁰ ignoring the role of the Nicaraguan state in encouraging settlers and corporations in the Indigenous territories, as well as the role of officials implicated in illegal and sales.

The Oakland Institute also sought a response to the allegations of Myrna Cunningham covering up for the Nicaraguan government and regional officials like Carlos Alemán Cunningham and Rose Cunningham.³⁰¹

–continued



Myrna Cunningham is mother of Carlos Alemán Cunningham, Coordinator of the Autonomous Regional Government of the RACCN, as mentioned earlier, implicated in illegal land sales of Indigenous lands in RACCN. Rose Cunningham is Myrna's sister.

Myrna Cunningham acknowledged the increased presence of settlers and tensions. However, she downplays the responsibility of the state and the *colonos* in the hardships faced by the Indigenous. For instance, she attributes recent violence in the Alal community as an act of retaliation by the settlers."³⁰² However, according to the Office of the High Commissioner for Human Rights, "the most recent incident occurred on January 29, 2020, when dozens of armed men attacked the Mayangna community that lives inside the Bosawás Biosphere Reserve, a remote protected area of the Autonomous Region of the North Caribbean Coast, 300 km north of Managua. Four members of the Alal community, in the territory of Sauni As, were killed, two others wounded and 16 houses burned, forcing hundreds of people from the community and its surroundings to flee. Police officers did not arrive at the scene until the following day."³⁰³ After initial denial of the violence, through a press conference, Chief Commissioner Róger Torres, head of the Mining Triangle police, identified the perpetrator as Lester Isaiás Orozco Acosta, alias "El Choco," with links to the "Chabelo" criminal gang, under investigation for murder, serious injury, fire, and illegal possession of firearms, which raises questions about the allegation of retribution made by Ms. Cunningham.³⁰⁴

In response to allegations against her sister, Rose Cunningham, Myrna Cunningham says: "She has a long experience in negotiations[.] She has been able to visit the communities that are in conflict[.] She has been able to meet with set[t]lers[.] She has been able to meet with both groups[.] It has not been easy especially because there is a continuous campaign of persons and group calling on the communities to not engage with the government and to solve the problem killing mestizos."³⁰⁵ Ms. Cunningham asserts,³⁰⁶ "some NGO and other actors have promoted what they call auto saneamiento that is understood as Miskitu kill mestizos and this just increase violence and the political polarization in Nicaragua...The government opposition in Nicaragua uses the situation in the communities to inflame."³⁰⁷ In her second email, Ms. Cunningham clarifies her claim saying, "the call of some sectors to "self-sanitation" [auto saneamiento] as a strategy to advance in the fifth stage of titling. Self-sanitation is understood as the delivery of firearms (spells, shotguns, others) to youth and men in the communities and the call to kill mestizo settlers from their collective lands."³⁰⁸

Without providing evidence, she alleges that a prominent Indigenous human rights organization and an Indigenous political organization are employing an "ethnocentric discourse" that coupled with the "self-sanitation" strategy has increased divisions in the communities.³⁰⁹ In fact, the IA Court has issued protective measures and remedies for 12 communities along the Rio Coco and Rio Wawa. In regards to human rights defenders, the IA Court has granted protective measures to those who represent the communities in their legal process due to the violent attacks and death threats they endure, as well as the regular defamation and misinformation spread by government representatives and officials.

Under the current Sandinista regime, such statements pose a real threat to the Indigenous in Nicaragua. On July 16, 2018, Nicaragua adopted an anti-terrorism law, in which anyone who kills or injures somebody not directly participating in a "situation of armed conflict," or who destroys or damages public or private property, can be sentenced to up to 20 years in prison. Anyone found guilty of directly or indirectly financing or aiding so-called terrorist operations can also face up to 20 years in prison.³¹⁰ International observers such as the United

—continued



Nations fear the new law can be used by Ortega to criminalize and, thus, suppress any opposition to him or his Party.³¹¹

In December 2018, the government rescinded the legal status of nine NGOs in one week, including medical and human rights groups, for instance Centro de Información y Servicios de Asesoría en Salud (CISAS) and the Nicaraguan Center for Human Rights (CENIDH) – along with environmental and community development NGOs – seizing their assets and freezing their bank accounts.³¹² *Confidencial*, one of the few independent media outlets in the county, had their documents and computers seized.³¹³

Furthermore, Myrna Cunningham questions the value of Inter-American Court, the regional human rights mechanism that has offered redress to the impacted communities since its inception. She says that its limitations are that it addresses the issue as a legal problem only. “It deepens the division in the communities – attorneys need to win the case – they need to prove their position – so they do not care to solve the problem – and since the process is so long and expensive – only few in the communities knows and participate. The IA system do not care about solving the situation. They care about ruling against...”³¹⁴



Miskitu woman from San Jeronimo expresses her outrage at the meeting in Wiwinak

She concludes her response to the Institute by saying, “I do believe the situation is seen complicated especially though the lens of distorted And fake news[.]There are problems in maybe 20 of 500 communities[.] There is not enough information [.]”³¹⁵

Yet, as witnessed during field work and in interviews, dozens of people from impacted communities regularly participate in the extensive legal planning processes that guide their petitions at the IA Court. And most of the human rights defenders are Miskitu people from the region they are defending. Ms. Cunningham’s statements about the futility of the IA Court, the motivations of the attorneys, and the participation of the communities is potentially dangerous. She appears to have chosen to use her positions and power to act not as a bridge but as a barrier to justice in the rapidly advancing land grab where only leadership, unity, and resources will forge a pathway to a possible future for her people.





Community meeting on the court hearing in Santa Fe, November 2018

Saneamiento: A Demand Throughout Nicaragua

Land Struggle in the South Caribbean Coast Autonomous Region (RACCS) and Pacific, Center, and North (PCN)

Indigenous and Afro-descendant dispossession has been ubiquitous in the country under the current government, as communities of the South Caribbean Coast Autonomous Region and the Pacific, Center, and North region face a constant stream of settlers, central government interventions, and development projects that threaten their lands, economic wellbeing, and political autonomy.

In the RACCS, colonization by *mestizo* settlers from major Somoza-era and post-war resettlement zones has been particularly evident in the devastating levels of deforestation in the region's natural reserves, which largely overlap with Indigenous and Afro-descendant territories. For instance, the Cerro Silva and Punta Gorda Nature Reserves, which overlap with the Bluefields Creole and Rama-Kriol territories, lost 16 and 23 percent of their forests, between 2001 and 2013.³¹⁶

According to conservation biologists and forest rangers, much of the deforestation in the RACCS is caused by cattle ranching,³¹⁷ along with palm oil, and agribusiness more generally, in the government's development plans.³¹⁸

The typical course of this deforestation is as follows: smallholders along the frontier of agricultural activity in the region begin by enclosing a portion of the communal lands, marking off the borders with trails. Then, they clear cut the land selling timber. They may use this land for monoculture

until the fragile volcanic soils are exhausted within a decade. Finally, they sell the lands to larger-scale ranchers for cattle pasture. According to a recent investigation, one manzana (0.7 ha) of private lands in the region sells for around US\$1,000; one manzana of illegally enclosed communal lands can sell for US\$66 or less. The beef is then largely exported.³¹⁹ Nearby Indigenous and Afro-descendant communities sustainably cultivate multiple plots at substantial distances from each other on a rotating basis. As a result, they often do not discover that their lands have been stolen until months or years after the fact.³²⁰

A recent case in the overlapping zone of the Rama-Kriol Territory and the Indio-Maíz Biological Reserve illustrates this process and the Sandinista government's complicity. In March 2017, Rama-Kriol forest rangers discovered a 1400 ha ranch in their territory and uncovered that the owner was a Nicaraguan man who also owned at least one more illegal ranch in the Bosawás.³²¹ The rangers took photo and video evidence and recorded the ranch's location, presenting the evidence to regional and central government ministries. The government's response was to send a task force to burn down the ranch without consulting with—or even informing—the Rama-Kriol Territorial Government. The owner of the ranch was not charged with any crimes and forest rangers have reported that workers on the ranch have begun rebuilding on the land.³²²



More prominently, an ecological disaster in Indio-Maíz that resulted from colonization took center stage in Nicaragua's ongoing sociopolitical crisis. In the weeks before civil unrest erupted in April, 2018, protests had already begun over a massive wildfire in Indio-Maíz.³²³ The slash-and-burn agriculture practiced by settlers illegally cultivating rice in the swamps played a major role in the fire.³²⁴ The fire broke out on April 3, 2018 and ultimately consumed over 5,400 ha. Protestors – led by university students in Managua – focused on the government's failure to protect the reserve and to take adequate action to fight the fire.³²⁵ The government reacted by sending out counter-protestors and riot police who violently suppressed the protest.³²⁶

Indigenous and Afro-descendant dispossession in the RACCS has not only been caused by government inaction; state-led development projects have also led to significant harms. Most notably, the government's attempt to build a Grand Interoceanic Canal generated land insecurity and internal conflicts. The government awarded a concession to a Chinese billionaire's company in 2012 for this project, which would have been wider and deeper than the Panama

Canal. Most of the canal would have passed through communal lands, and no consultations were held with the affected communities before the concession was issued, as would be required under the national legislation and the Inter-American Court of Human Rights jurisprudence.

After significant pressure from the Rama-Kriol Territorial Government, where one community would have been entirely displaced by the project, the central government finally agreed in 2015 to hold a consultation process. The central government officials visited each community for only one-to-two days to present the possible benefits of the project. In the end, after allegations that members of the territorial government had been bribed, a minority of the Rama-Kriol executive board signed a "Free, Prior, and Informed Consent Agreement" for the perpetual leasing of their lands for the project in 2016.³²⁷ A petition on the case is ongoing at the Inter-American Commission on Human Rights, but the project now appears to be inactive,³²⁸ leaving behind a divided territorial government and a state of perpetual uncertainty about the possibility of dispossession.³²⁹

When the Government of Nicaragua Bypasses the Law

In a blatant attempt to bypass the laws of the country and existing protection of Indigenous and Afro-descendants land rights, the Sandinista government has formed parallel communal governments in cases where existing communal governments resist dispossession. Most notably, the Bluefields Creole Communal Government in the RACCS filed a land claim in 2006 under Law 445 that included significant portions of the proposed interoceanic canal route and lands occupied by large numbers of settlers. The claim was accepted in 2010, but after final negotiations had been completed with overlapping territories in 2012, titling still did not occur. Instead, in 2014, Sandinista leaders in Bluefields held their own election for a parallel Bluefields Creole Communal Government. Once the parallel government had been installed, it quickly applied for a title to a land claim that was only seven percent of the size of the original claim submitted in 2006. Ignoring the process outlined in Law 445, the Sandinista government issued the title in 2016, formalizing the dispossession of the Bluefields Creole community. The case remains pending before the Inter-American Commission on Human Rights.³³⁰

In the Pacific, Center, and North (PCN), Indigenous Peoples have faced similar tactics of dispossession to those employed in the RACCN and RACCS, but without the

advantage of having an autonomy or communal lands law. The peoples of the PCN, with a population of over 300,000, have struggled against dispossession on the basis of communal titles issued largely by Spanish monarchs and that have never been ceded. Despite the continued validity of these titles, Nicaraguan governments have long sought to extinguish them in effect when not possible in law.³³¹ Today, this process has continued as hundreds of private titles have been issued illegally by the government within the areas of the Indigenous communities' royal titles.³³²

In addition, the Sandinista government has installed parallel communal governments in the PCN. In the Chorotega community of Muy Muy, the non-Indigenous municipal government has long sought to overthrow the Indigenous communal government. Under Sandinista rule, this was accomplished when the municipal government organized its own communal government elections and then seized all communal government institutions. This enabled the municipality to control the issuing of leases and avoid formal communal government complaints over illegal titles. The original communal government has sued in Nicaraguan courts without receiving an answer, and a petition is currently pending before the Inter-American Commission on Human Rights.³³³



Indigenous peoples in the PCN have also faced dispossession at the hands of a land titling program sponsored by the World Bank. The Nicaraguan government's Program for Land Management (PRODEP)³³⁴ seeks to formalize land ownership through coordination between a range of government agencies. With respect to Indigenous lands in the PCN, though, PRODEP has refused to enter royal titles into the land registry and has failed to consult in any way with the relevant Indigenous communities on cases that

would affect their lands. This is despite the requirement that the state consult with the communities under International Labour Organization Convention 169, Inter-American Court of Human Rights jurisprudence, and the World Bank's own Operational Directives 4.10 and 4.20.³³⁵ Instead, PRODEP has legally recognized Indigenous dispossession ranging from land grabs that took place more than a century ago to recent violent invasions by demobilized Contras.³³⁶

Saneamiento Ya!

In 2015, for the first time in history, all Indigenous and Afro-descendant peoples in Nicaragua assembled to create a national alliance, the Nicaraguan Alliance of Indigenous and Afro-descendant Peoples (APIAN).³³⁷ Today, APIAN's leaders are leveraging their unity to launch a collective fight against dispossession in all of Nicaragua. Their demand is *Saneamiento*.

Saneamiento is the final, crucial step of the land claims process established under Law 445, which requires clearing the Indigenous territories of *colonos* "settlers" and corporations – living and using the territories without a legal title or a lease agreement with the community.³³⁸ The Nicaraguan government has failed to advance *Saneamiento* in the RACCN or RACCS.³³⁹ Without *Saneamiento*, titles remain empty promises to the traditional lands that Nicaragua must guarantee its Indigenous and Afro-descendant Peoples.³⁴⁰



Miskitu villagers united in their demand for *Saneamiento*



Endnotes

- 1 A *syndic* or *sindico* is the highest political authority in the community, who serves as the overseer and administrator of the land and natural resources of the community.
- 2 The term *colono* is typically used for specifically non-Indigenous, non-Afrodescendant Nicaraguans who form part of the wave of colonization moving eastward from the interior of the country that has been illegally seizing, deforesting, and working Indigenous and Afrodescendant lands, often using threats and physical force to displace them.
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- 4 *Saneamiento* is the last step of Law 445 – whereby the Indigenous and Afrodescendant communities are calling for the removal of *colonos* and outside industries from their communal lands except as authorized by the communities.
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