



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
23 June 2022
English
Original: Spanish
English, French and Spanish only

Committee on the Elimination of Racial Discrimination

107th session

8–30 August 2022

Item 4 of the provisional agenda

**Consideration of reports, comments and information submitted
by States parties under article 9 of the Convention**

List of themes in relation to the combined fifteenth to twenty-first periodic reports of Nicaragua

Note by the Country Rapporteur

1. The Committee on the Elimination of Racial Discrimination decided at its seventy-sixth session that the Country Rapporteur would send to the State party concerned a short list of themes with a view to guiding and focusing the dialogue between the State party's delegation and the Committee during the consideration of the State party's report.¹ The present document contains a list of such themes. It is not an exhaustive list; other issues may also be raised in the course of the dialogue. No written replies are required.

Statistics

2. Comprehensive and up-to-date disaggregated statistical data on the socioeconomic situation of indigenous and Afrodescendent peoples. Measures taken to apply the principle of self-identification² in data collection.

The Convention in domestic law and the institutional and policy framework for its implementation (arts. 1–2 and 4–5)

3. Application of the Convention under domestic law³ and cases where the Convention has been invoked or applied in judicial decisions.

4. Incorporation of the prohibition against racial discrimination, as defined in article 1 of the Convention, into domestic law. Incorporation of the conduct described in article 4 of the Convention into the State party's criminal law.⁴ Information on the substance and scope of the offence of discrimination under article 427 of the Criminal Code and on the scope of article 36 (5) of the Criminal Code, which provides that an aggravating circumstance exists where the commission of a crime is racially motivated.

5. Information on the preparation of a comprehensive national policy to combat racism and racial discrimination.⁵

¹ [A/65/18](#), para. 85.

² [CERD/C/NIC/CO/14](#), para. 13.

³ *Ibid.*, para. 14.

⁴ *Ibid.*, para. 17.

⁵ *Ibid.*, para. 12.



6. Operation and activities of the National Commission for the Elimination of Racial Discrimination⁶ and resources allocated to enable it to carry out its mandate. Measures to increase the independence and impartiality of the judiciary and the independence of the Office of the Human Rights Advocate, and action taken by the Office to combat racial discrimination.

Situation of indigenous and Afrodescendent peoples (arts. 2 and 5)

7. Measures to combat structural discrimination against indigenous and Afrodescendent peoples and to ensure that they can effectively enjoy their rights. Specific results of the implementation of the Strategy and Plan for the Development of the Caribbean Coast and Alto Wangki and Bocay.⁷ Participation of indigenous and Afrodescendent peoples and communities in the design and implementation of such measures.

8. Progress made in ensuring that the lands, territories and resources traditionally owned, occupied, used or acquired by indigenous peoples are recognized and protected. Measures to ensure the implementation of Act No. 445, on the communal property regime of the indigenous peoples and ethnic communities of the autonomous regions of the Atlantic Coast of Nicaragua and of the Bocay, Coco, Indio and Maiz Rivers.⁸

9. Measures to prevent encroachment on indigenous territories by third parties and to prevent conflicts relating to the occupation and use of indigenous peoples' land and territories. Measures to prevent the forced displacement of the indigenous and Afrodescendent communities affected.

10. Attacks and acts of violence against members of indigenous groups in their territories and against Afrodescendent communities, in particular the attacks that took place in the Mayangna Sauni As indigenous territory. Steps taken to prevent such acts, the investigations conducted and their results.

11. Measures to ensure respect for the right of indigenous peoples to be consulted with a view to obtaining their free, prior and informed consent on all legislative or administrative measures that may affect them. Information on prior consultation procedures and their outcomes, particularly in relation to the granting of licences for natural resource exploration and exploitation projects, including the construction of the Grand Interoceanic Canal, the deep sea port project at Bluefields, the forest conservation and carbon sale project and the BioClima project.

12. The situation of indigenous peoples affected by economic or natural resource development projects, particularly with regard to their rights to land, natural resources, water, food and health. Information on environmental and human rights impact studies conducted prior to granting licences for such projects.

13. Progress made in improving the accessibility, availability, quality and cultural appropriateness of health services for indigenous and Afrodescendent peoples. Implementation of intercultural health-care models in the autonomous regions of the Caribbean Coast. Information on the implementation of the Ancestral Traditional Medicine Act (No. 759) and the operations of the Institute of Natural Medicine and Complementary Therapies of the Ministry of Health.⁹

14. Impact of the coronavirus disease (COVID-19) pandemic and Hurricanes Eta and Iota on the situation of indigenous and Afrodescendent peoples.

15. Measures to ensure that indigenous and Afrodescendent peoples have access to high-quality education, to end illiteracy among indigenous peoples and to prevent indigenous children from dropping out of school. Results of the implementation of the Regional Autonomous Educational Subsystem in the autonomous regions of the Caribbean Coast and the special status zone of Alto Wangki and Bocay.

⁶ Ibid., para. 16.

⁷ CERD/C/NIC/15-21, para. 64.

⁸ Ibid., para. 54.

⁹ Ibid., para. 51.

16. Cases of excessive use of force against members of indigenous and Afrodescendent groups, including cases involving the deaths of indigenous or Afrodescendent persons in detention. Investigations conducted and their results.

17. Specific measures to combat the multiple and intersecting forms of discrimination faced by indigenous and Afrodescendent women, particularly with respect to women's participation in political and public life and their access to education, employment and health services. Measures to combat gender-based violence against indigenous and Afrodescendent women. Cases of violence against indigenous and Afrodescendent women that have been investigated and prosecuted, and in which penalties have been imposed and reparations ordered for the victims.

Political participation (art. 5)

18. Political participation of members of indigenous and Afrodescendent groups, especially indigenous and Afrodescendent women, in representative institutions and public affairs, as well as in decision-making positions in both the public and private sectors.

19. Implementation of the system of communal, territorial and regional self-government, in particular under the Statute of Autonomy of the Regions of the Caribbean Coast of Nicaragua (Act No. 28).¹⁰ Information on the creation of parallel structures that could supplant legitimately elected indigenous representatives in communal and territorial assemblies.

20. Compliance with the 23 June 2005 judgment of the Inter-American Court of Human Rights in *Yatama v. Nicaragua*, regarding legislative reforms to guarantee the effective participation of indigenous organizations in electoral processes.

Access to justice (art. 6)

21. Complaints regarding acts of racial discrimination and results of the investigations conducted, including the penalties imposed on the persons found responsible.

22. Recognition of the traditional systems of justice of indigenous peoples, in conformity with international human rights law and, in particular, information on the results of the specific steps taken to strengthen the community justice system.¹¹

23. Measures to ensure access to justice for indigenous and Afrodescendent peoples, in particular to eliminate racist attitudes and racial discrimination in the judicial system. Measures to ensure respect for due process in criminal proceedings initiated against indigenous persons and persons of African descent. Operation in practice of the Public Defender Service for Indigenous Peoples and Persons of African Descent,¹² specific action taken by it and the resources allocated to enable it to carry out its work.

24. Measures to combat the racial profiling of indigenous and Afrodescendent peoples by law enforcement officers and in the judicial system.

Situation of human rights defenders and indigenous and Afrodescendent leaders (art. 5)

25. Effective protection of human rights defenders, including indigenous and Afrodescendent leaders who find themselves under threat for defending their rights. Measures taken to prevent human rights defenders from being prosecuted for actions relating to their work.

¹⁰ Ibid., para. 36.

¹¹ Ibid., para. 89.

¹² Ibid., para. 63.

Combating racial discrimination (arts. 2 and 7)

26. Impact of measures to prevent the dissemination of messages that promote racial stereotypes and prejudices against indigenous peoples and persons of African descent, including through public or social media.¹³ Specific measures to promote the dissemination and preservation of the cultural and linguistic identities of indigenous and Afrodescendent peoples.¹⁴

¹³ CERD/C/NIC/CO/14, para. 27.

¹⁴ CERD/C/NIC/15-21, para. 83.