
Nicaragua: Indigenous people win major legal battle

The Mayagna Indian Community of Awas Tingni has won a major legal battle against the government of Nicaragua. On September 17, 2001, the Inter-American Court of Human Rights released its decision declaring that Nicaragua violated the human rights of the Awas Tingni Community and ordered the government to recognize and protect the community's legal rights to its traditional lands, natural resources, and environment.

The court's decision has far-reaching implications. "It is precedent-setting internationally," said James Anaya, special counsel to the Indian Law Resource Center which represents the Awas Tingni Community. "Members of the community have fought for decades to protect their land and resources and against government neglect and encroachment by loggers. This decision vindicates the rights they have struggled so long to protect."

There are many similar land and resource disputes across the Americas. This case is the first such dispute ever to be addressed by the Inter-American Court. Under international law, governments must respect indigenous peoples' rights to their traditional land. But if a government does not demarcate indigenous peoples' land, their territorial rights remain uncertain.

The Nicaraguan government has exploited that confusion in its own favor and granted foreign companies licenses to log much of the tropical forest where the community resides. But now the hemisphere's highest human rights court says that Nicaragua and other countries must protect indigenous rights.

The Awas Tingni Community fought for years in Nicaraguan courts to protect their lands and resources. But the Nicaraguan legal system failed to address the community's concerns. Then, in 1995 the Indian Law Resource Center filed a petition before the Inter-American Commission on Human Rights against the government of Nicaragua on behalf of the Community of Awas Tingni. The commission is an independent body of the Organization of American States.

The petition denounced the Nicaraguan government's pattern of granting logging licenses to foreign companies on indigenous communities' ancestral lands without consulting the communities. The commission found in favor of the community, but the government ignored the commission's requests for remedial action. In June of 1998, the commission brought the case before the Inter-American Court.

In its decision, the court stated that Nicaragua violated international human rights law by denying the community its rights to property, adequate judicial protection, and equal protection under the law. The court ruled that Nicaragua's legal protections for indigenous lands were "illusory and ineffective." It ordered the government to demarcate the traditional lands of the Awas Tingni Community and to establish new legal mechanisms to demarcate the traditional lands of all indigenous communities in Nicaragua.

With this decision, the struggle of a single indigenous community along the Atlantic Coast of

Nicaragua has become a victory for all indigenous peoples of the Americas. This ruling requires every country in the Americas to rethink the way it deals with indigenous peoples within its borders.