



Inter-American court rules for Awas Tingni Indians *Decision sets an international precedent*

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by: Brian Stockes / Indian Country Today

WASHINGTON -- In a legal victory over the Nicaraguan government, the Mayagna Indian Community of Awas Tingni has won a major international court battle over legal rights as Indigenous people.

On Sept. 17, the Inter-American Court of Human Rights announced its decision declaring that Nicaragua violated the human rights of the Awas Tingni Community, ordering the government to recognize and protect the community's legal rights to its traditional lands, natural resources, and environment.

"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."

The Inter-American Court is an independent body of the Organization of American States (OAS), a regional body of countries in the western hemisphere similar to the United Nations. Under OAS policy the court applies and interprets human rights law that is binding on countries throughout the Americas. This case is the first such dispute ever to be addressed by this court.

Although the Nicaraguan Constitution nominally recognizes that Indigenous communities have rights to their lands, the government has not protected those rights.

In 1995, after hearing of the government's plan to grant a logging concession to a Korean logging company, the Awas Tingni launched an effort in the Nicaraguan courts to protect their rights. When the Nicaraguan legal system failed to address the community's concerns, they filed a petition before the Inter-American Commission on Human Rights against the government of Nicaragua.

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

In the recent decision, the court affirmed the existence of Indigenous peoples' collective rights to their land, resources and environment by declaring that Awas Tingni rights to property and judicial protection were violated by the government of Nicaragua when it granted concessions to a foreign company to log on the community's traditional land without either consulting with the community or obtaining its consent.

Declaring Nicaragua's legal protections for Indigenous lands "illusory and ineffective," the court found that the government not only discriminated against the community by denying it equal protection under the laws of the state, but also violated its obligations under international law to conform domestic laws to give effect to the rights and duties articulated in the American Convention on Human Rights.

In its ruling, the court declared that "for Indigenous communities the relationship with the land is not merely a question of possession and production, but it is also a material and spiritual element which they should fully enjoy, as well as a means to preserve their cultural heritage and pass it on to future generations." (unofficial translation)

The court ordered the government to demarcate the traditional lands of the Awas Tingni and to establish new legal mechanisms to demarcate traditional lands of all Indigenous communities in Nicaragua. It also ordered payment of \$50,000 in compensation to the Awas Tingni and \$30,000 for attorney fees and costs.

"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," said Armstrong Wiggins, a Miskito Indian from Nicaragua and an attorney with the Indian Law Resource Center.

"This ruling requires every country in the Americas to rethink the way it deals with the Indigenous peoples within its borders."