Indigenous Peoples Secretariat key ally in demarcation and titling of indigenous territories

The Land Administration Project (PRODEP) was designed to develop the legal and institutional framework for the administration of land property rights in Nicaragua, including those of indigenous peoples. Thanks to the political commitment of the government and the involvement of indigenous peoples’ representatives from the onset, 13 indigenous peoples territories were demarcated and titled in the Caribbean Region, covering nearly 19% of the national territory. The project contributed to resolve the emblematic Awas Tingni case, which had been the subject of a ruling of the Inter-American Human Rights Court.

**PRINCIPAL ORGANISATIONS INVOLVED**

World Bank
Indigenous Peoples Secretariat
Procuraduría de la República de Nicaragua
Government of Nicaragua

**LOCATION**

Caribbean coast, Nicaragua

**TIMELINE**

2006 - 2014

**TARGET AUDIENCE**

governmental bodies working with indigenous peoples on land issues

**KEYWORDS**

demarcation, indigenous territories, participatory mapping, titling, Awas Tingni
Good practices

towards making land governance more people-centred

This case study is part of the ILC’s Database of Good Practices, an initiative that documents and systematises ILC members and partners’ experience in promoting people-centred land governance, as defined in the Antigua Declaration of the ILC Assembly of Members. Further information at www.landcoalition.org/news/antigua-declaration-ilc-members.

This case study supports people-centred land governance as it contributes to:

Commitment 1  Respect, protect and strengthen the land rights of women and men living in poverty
Commitment 5  Respect and protect the inherent land and territorial rights of indigenous peoples
Commitment 7  Ensure that processes of decision-making over land are inclusive

Case description

Background issues

Nicaragua is still one of Latin America’s least developed countries. With more than 80% of the poor living in rural areas, land tenure security is central to Nicaragua’s poverty reduction efforts.

The three main regions of the country –the Pacific, Central and Caribbean regions– are characterised by different socio-economic and agro-ecological conditions as well as land tenure systems. The Caribbean (or Atlantic) region comprises almost half of the national territory and is home to about 80% of the indigenous peoples in Nicaragua, in particular the Sumu or Mayagna, the Miskitu and the Ramas, as well as two afro-descendent groups (Creole and Garifunas). These peoples and groups have coexisted with their diverse forms of social organisation and different forms of land tenure and use.

The Somoza regimes that ruled Nicaragua from 1936 to 1979 promoted private property and large-scale commercial agriculture, to the detriment of small-holder farmers and the indigenous peoples and afro-descendants in particular. The Sandinista government (1979–1990) reversed these policies, expropriating large landowners and redistributing the land to cooperatives and smallholder farmers. The Constitution of 1987, enacted in the framework of the Nicaraguan peace agreements, recognises the multi-ethnic nature of Nicaragua, noting indigenous peoples’ existence and their right to preserve their identity and culture.

However, despite the agrarian reform of the 1980s and the recognition of indigenous peoples’ rights by the Constitution, land tenure security remained low for indigenous peoples, due to inconsistencies in the legal and administrative...
frameworks, obsolete land records, and the lack of a leading land administration institution. Land claims of indigenous peoples and afro-descendants remained mostly unaddressed and were source of major social conflicts. An emblematic example is the Awas Tingni case. In 1995, the Nicaraguan government granted a concession to a Korean logging company in the ancestral lands of the Awas Tingni, a small community located in the North Atlantic Autonomous Region. The community failed to halt the concessions through the Nicaraguan legal system and turned to the Inter-American court of Human Rights in 1998. In 2001, in the case Awas Tingni vs. the State of Nicaragua, the court ruled in favour of the Awas Tingni people, maintaining that the government had violated their human rights. Furthermore, it demanded that the state fully delineate, demarcate and title the Anwas Tingni territory, as well as all other indigenous territories.

Solution

The World Bank supported the government of Nicaragua, through the Land Administration Project (PRODEP), to initiate legal and policy changes in land matters, consolidate land institutions and build their capacities, modernise the land records and information systems, and pilot and implement demarcation and regularisation initiatives. One component of the project aimed at demarcating and titling the territories of the indigenous peoples in the Caribbean region. Their representatives were involved from the onset of the project. The project piloted innovative approaches at community level for surveying territories and resolve conflicts. The new legislative framework provided clarity for community-based demarcation and titling of indigenous territories.

Activities

Recognising and formalising indigenous peoples’ land rights in the Caribbean region required an innovative and unique approach that took into account traditional decision-making methods, the communal arrangements of land and natural resources tenure, as well as a different world view.

With the support of PRODEP, the government defined a new approach for the participatory demarcation of territories and the registration of communal land and natural resource use, in collaboration with the indigenous authorities, the community leaders, and the communities. It was the first time Nicaragua embarked on such an effort. The fact that the approach was mostly used in remote and isolated areas made it particularly challenging.

New institutions and procedures

The new approach for participatory demarcation of communal lands required the creation of a number of institutions and procedures. New institutions are the National Commission for Demarcation and Titling (CONADETI), the Regional Intersector Commission, and Regional Technical Commissions. New procedures were defined in a number of laws: the Law 445 on “Communal property Regime of Indigenous Peoples and Ethnic Communities of the Autonomous Regions of the Atlantic Coast of Nicaragua and of the Rivers Bocay, Coco, Indyo and Maiz”; the Cadastre Law of 2005, and the Public Registry Law of 2009. These laws provided clarity on the processes for the demarcation, titling and registration of indigenous communities.
Participatory demarcation

For each territorial claim, stakeholders got together to understand, in a participatory manner, the nature of the land claim. Independent consultants assessed the land tenure arrangements, using anthropological methods. The results of these assessments were shared, discussed and approved by the communities. This included the settlement of internal conflicts.

As much as possible, the project built upon traditional forms of consultation and participation, such as indigenous peoples’ assemblies or the meetings of elders, in order to ensure that the process of demarcation and registration was embedded in the traditions of the communities. Land surveys were done with their participation and conflicts were resolved using their own mechanisms.

Despite the traditional and participatory character of the demarcations, an intensive supervision of the social dimensions was needed, in order to resolve unclear territorial boundaries and conflictive relationships amongst neighbouring communities.

The project management also paid much attention to communicate well the project objectives and methodologies. Manuals and documents were prepared to build the capacities of government institutions, civil society and indigenous authorities. Many of these manuals were translated into indigenous languages.

The steps of communal land demarcation and regulation

1- Formulation. The community formulated its land claim in a participatory manner and submitted it to the Autonomous Regional Council.

2- Submission. Once the claim was accepted by the Autonomous Regional Council, the indigenous community representatives could submit it to the Intersectorial Commission of Demarcation and Titling (CIDT). The claim needed to include the following information:
   a. the names of the representatives
   b. the meeting place
   c. description of the territory claimed by the community and an assessment of possible conflicts or involvement of third parties.

3- Conflict resolution and mediation. In the case there were conflicting or overlapping claims over land or natural resources, communities were invited to come together to discuss and resolve these conflicting or overlapping claims.

4- Surveying. The territories were surveyed and demarcated in a participatory manner with the involvement of “designed authorities”: representatives of the community (both men and women), the government, and the World Bank.

5- Titling of the communal land.

6- Preparation of territorial management plans.
Importance of the case for people-centred land governance

This case is a good practice example of how to involve indigenous peoples and their representatives in the demarcation and recognition of ancestral land. In particular, the Awas Tingni case represents an important landmark for indigenous peoples in the Americas, as it demonstrates the potential of international human rights laws to protect their land and natural resources.

Indigenous peoples have achieved the preservation of their traditions, culture, mother tongue and antique social structures. Nowadays, the indigenous communities of Mayagna, Miskitu and Ramas prevail and so do their social organisation, political governance, traditions and beliefs. The legal recognition of their land claims has strengthened the acknowledgment by central, regional and local authorities of the traditional forms of governance of these territories.

Changes

Baseline

Land conflicts had always been present in the Atlantic or Caribbean Coast of Nicaragua. The advance of the agricultural frontier and population resettlement after the armed conflict increased the pressure on natural resources and land. The PRODEP was designed in late 1990s, when the social tensions regarding land and natural resources rights still prevailed. Before the PRODEP started, the situation of indigenous peoples’ land rights in Nicaragua was as follows:

- lack of political and legal recognition of indigenous peoples’ right to land;
- absence of a legal framework and institutions to govern cadastral activities; un reliable cadastral data records;
- absence of a legislation, procedures and mechanisms to demarcate and regularise indigenous peoples land and territories;
- virtually no institutions to resolve disputes over land and natural resources.

Achievements

A clearer and more solid legal and institutional framework for land administration has been established favouring the recognition of indigenous peoples’ land rights:

- in 2002, the Law 445 was approved; in 2005 the Cadastre Law; and in 2009 the Public Registry Law;
- fifteen indigenous communities in the Caribbean Region have received collective titles, covering over 22,000 km² or 19% of the national territory;
- in December 2008, with the support of the Project, Awas Tigni territory was finally titled, representing a historical achievement for Nicaragua;
- the land titling process has also provided tenure security to other farmers in these territories that are not part of the communal tenure system;
Evidence

English language version of Law 445:
http://calpi.nativeweb.org/Law%20445%20English.pdf

Nicaragua Land Administration Project - Documents & Reports:

Lessons learned

Lessons for civil society

In order to be true partners in development, the indigenous people’s organisations have to have reached a level of political maturity that allows them to negotiate with government and donors. This means that their work should not remain at advocacy level but they should also have a social development agenda.

Indigenous peoples in Nicaragua had reached that level of political maturity. This contributed a great deal to move ahead with the land demarcation and titling process.

Working closely with indigenous peoples ensures that they become an active and key actor of the project. Empowering indigenous people’s authorities and community members ensures sustainability, social accountability and contributes to resolve land disputes.

Lessons for policy makers

The participation of the indigenous communities in the assessment, surveying and mapping of their territories proved to be cost-effective and efficient and contributed to resolve conflicts within the communities.

The success of the PRODEP was based on a solid social strategy for the participation of indigenous peoples in all project components and activities.

Cadastral systems are established to guarantee transparency and accountability. Therefore, all information should be properly systemised.

Challenges

Historically, the land tenure systems of the indigenous peoples and afro-descendants overlapped and were organised around customary land tenure regimes. As a result, during the project preparation, land was claimed in multiple ways by single communities of single ethnic groups; by multiple communities of different ethnic groups; and by multiple communities of one single ethnic group.

One of the main challenges was to build consensus amongst the different claimants to resolve the overlapping claims and to work with them to design participatory methodologies for demarcation – all this in complete respect of the traditional forms of governance and decision-making.
Another challenge was the need to strengthen the capacity of local institutions to work with indigenous organisations’ representatives. It took time and energy to build bridges of trust and find common ground.

Follow-up

The project increased the capacities of the government of Nicaragua. After the conclusion of the project, the government was able to continue supporting the participatory demarcation of indigenous lands and the resolution of conflicts in the Caribbean Coast. It tilted three more territories in 2014, after the project ended.

Supporting material

References and further reading


Photos, videos

Maps of titled indigenous territories in the Caribbean
http://www.pgr.gob.ni/index.php/areas-de-la-pgr/aa/19-proyectos/34-titulacion-territorios-indias-costa-caribe

Video on indigenous land rights in Honduras, Nicaragua and Colombia
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The International Land Coalition (ILC) is a global alliance of civil society and intergovernmental organisations working together to promote secure and equitable access to and control over land for poor women and men through advocacy, dialogue and capacity building.

The opinions expressed in this brief are those of the authors and do not necessarily constitute an official position of the International Land Coalition, nor of its members or donors. Authors: Mary Lisbeth Gonzalez (World Bank), and J. Chérifet (ILC Secretariat).


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