



When the Forest and the Rivers is Home – Managing Indigenous Territory and Settler Relations in North Eastern Nicaragua

JULIE WETTERSLEV 

COLLECTION:
FACING THE
CHALLENGES OF
CLIMATE CHANGE –
LATIN AMERICAN
PERSPECTIVES

RESEARCH ARTICLE



STOCKHOLM
UNIVERSITY PRESS

ABSTRACT

Based on a case study in the Mayangna territory of Awas Tingni, this article explores current conflicts over lands, resources and identity in the Northern Caribbean region in Nicaragua. Through ethnographic excerpts and analysis of interviews and observations, the study demonstrates that judicialization and land titling has not brought security and stability for rights bearing indigenous communities. Rather, the titling process has been followed by a process of monetization of the land that has facilitated colonisation with a range of detrimental environmental and socio-cultural consequences, leaving fractioned indigenous communities in a vulnerable position to protect eco-systems and manage the relations with the many new settlers in their territories.

RESUMEN

Basado en un estudio de caso en el territorio Mayangna de Awas Tingni, este artículo explora los conflictos actuales por tierras, recursos e identidad en la región del Caribe Norte en Nicaragua. A través de extractos etnográficos y análisis de entrevistas y observaciones, el estudio demuestra que la judicialización y titulación de tierras no ha traído seguridad y estabilidad para las comunidades indígenas titulares de derechos. Más bien, el proceso de titulación dio paso a un proceso de monetización de la tierra que ha facilitado la colonización con una serie de consecuencias ambientales y socioculturales perjudiciales, dejando a las comunidades indígenas fraccionadas en una posición vulnerable para proteger los ecosistemas y gestionar las relaciones con los muchos nuevos colonos en sus territorios.

CORRESPONDING AUTHOR: Julie Wetterslev

European University Institute,
Florence, Italy

julie.wetterslev@eui.eu

KEYWORDS:

Indigenous peoples; settler colonialism; Nicaragua; Mayangna people; indigenous land rights

PALABRAS CLAVE:

Pueblos indígenas; colonialismo; Nicaragua; el pueblo Mayangna; derechos territoriales indígenas

TO CITE THIS ARTICLE:

Wetterslev, J. 2024. When the Forest and the Rivers is Home – Managing Indigenous Territory and Settler Relations in North Eastern Nicaragua. *Iberoamericana – Nordic Journal of Latin American and Caribbean Studies*, 53(1): 31–43. DOI: <https://doi.org/10.16993/iberoamericana.616>

When we received the Title, it was a sign or a symbol of joy, especially for us, the Elderly, who have fought for this. We thought that with this title we secured the future of these children of the coming generations. We thought the land would be intact.

But today we know that the Awas Tingni territory is full of people, occupied by other people. Totally invaded. It really causes me to feel sad. Even as I am ill, and old, it really causes me discomfort and preoccupation. It is really preoccupying, and mostly it leaves me feeling disappointed. That after so much struggle, the land has been occupied by other people, and not by us. It is sad.

Grandfather Salomón,
Awás Tingni, November 2017

PRELUDE: SAILING UP THE RIVER WAWA

We are in a large wooden dugout canoe. It is a sunny day, during the otherwise rainy season, and the thick forest cover on either side of the river shines green, in many shades ranging from bright to dark. Huge and old ceiba and mahogany trees rise on the riverbank. The sight of them is impressive against the clear blue sky. For long stretches, it seems like this is all there is – the river, the trees, the sky, and us. But sometimes we pass other canoes, with people paddling, or canoes at a standstill near the riverbank, with people in them fishing in relaxed poses. Most are from the Mayangna community in Awás Tingni. We wave at them and smile as we pass.

I feel a bit guilty about the sound of the motor that breaks the silence with a soaring roar, and about the fuel that will spill into the river where people collect drinking water, take baths and fish. But the Mayangna leaders had told me to buy gasoline, as the journey upriver and back would take more than a day without the motor. It was the first time during the whole week that I had to take out my wallet to pay for something. The fluid transmission liquid was sold in a plastic container from a wooden stilt house close to the house I am staying in, with the family of a young lawyer who is also the legal advisor to the Mayangna community. The pink liquid had to be mixed with motor oil.

We are in the subtropical forest in Northern Nicaragua, in 2017, during my first visit to the territory known as AMASAU, which is short for *Awás Tingni Mayangnina Sauni Umani* (Land of the Mayangna People in Awás Tingni). Mayangna is a term that has replaced Sumo or Sumu,¹ to refer to a nation or a people predominantly based in smaller groups around the rivers Wangki (Coco) and Patuca, which form the border between Nicaragua and Honduras, and around their tributary rivers. The river Wawa is one of those.

The AMASAU territory covers 73,394 hectares of land, which was demarcated and titled as ancestral indigenous property of the Mayangna community in Awás Tingni in 2008, seven years after a judgement by the Inter-American Court of Human Rights had conceded the community the right to have their land rights restored by the Nicaraguan state ([United Nations News Service 2008](#)). The AMASAU territory is one of 23 indigenous and afro-descendent territories that were titled from 2005 onwards under the system of communal property to ensure autonomy for the indigenous and afro-descendent peoples in the Autonomous Regions on the Caribbean Coast ([IWGIA 2020](#)). We are going upriver to meet the settlers in the territory.

Several of the Mayangna leaders have come along on our journey up-river; the Vice-president and the Secretary of the Indigenous Territorial Government, one of the men from the Council of the Elders, and Amélia,² who represents the Awás Tingni territory in the headquarters of the Mayangna Nation in Managua. Her facial expression is serious. Two of the men are carrying rifles. At first, I thought they might have brought them for hunting, but now I realize that we are going to patrol the area. They consider it necessary to bring the weapons because, as they say, the settlers have arms, and you never know how they might react to our visit.

During the first couple of miles, we pass simple stilt wooden houses on either side of the river. These are the ‘*fincas*’ of the community members, the small farms where they grow rice, yuca and beans, and hold pigs and chicken. We make a stop at a farm where a Mayangna family work the land. They show me the place, the young cocoa trees, and the wooden enclosure where a group of pigs are dazing in the mud. In the centre of the clearance is a very simple open wooden construction with a palm-thatched roof, where a young woman sits with a child. She is married to one of the sons of the family. I understand now that this is where the community members go to work when they leave the house in the village in the early morning in rubber boots with the machete slung over their backs. My understanding of Awás Tingni as a space begins to change, as I realize how all these *fincas* in the territory up- and down-river are connected to the village. The territory opens, as the Mayangna explain that until not so long ago, people would move even more freely in these forests, on these rivers, and live their lives in more nomadic and less settled ways.

A bit further up the river we start passing other canoes with motors on them. I ask Amélia if those were the settlers, and she replies with a nod. ‘*Is the atmosphere tense?*’ I ask – ‘*I notice that they didn’t greet us? But of course, we didn’t greet them either?*’ ‘*Yeah*’, she replies ‘*that’s exactly how it is – we don’t greet each other*’. From this point on, she starts pointing to small clearings on the riverbank: ‘*Settlers*’.

INTRODUCTION

Following the titling of large areas of land in the name of the Miskitu and Mayangna indigenous communities on the North Caribbean Coast of Nicaragua in the early 2000s, serious conflicts over land and resources have arisen in these territories. Based on a study in the Mayangna territory of Awas Tingni, this article explores the background and the drivers of these conflicts, as well as the environmental and socio-cultural consequences of accelerated colonisation, and the way in which the Mayangna community attempts to manage their current situation and relations with the settlers.

The village of Awas Tingni is one of roughly one hundred contemporary Mayangna communities in the subtropical forests in the Autonomous North Caribbean Region (RACCN)³ in Nicaragua. Awas Tingni was the first community ever to present an indigenous land rights claim before the Inter-American Court of Human Rights, and the case *Mayagna (Sumo) Awas Tingni v. Nicaragua* led to the first order from an international court that a state should demarcate and title lands as communal indigenous territories. In this way, the inhabitants of Awas Tingni contributed to the development of indigenous jurisprudence in international human rights law and to the development of land laws and land titling that favoured the creation of 23 indigenous territories on the country's Caribbean Coast, covering 31% of the national territory. The case of Awas Tingni has therefore been the subject of many a legal, jurisprudential and anthropological analysis, making the village a much-described place in the literature on indigenous peoples' human rights (see i.e. Isa 2003).

The Awas Tingni judgement became a precedent and has been celebrated as a 'victory' for indigenous peoples all over the world. But while the titling of indigenous lands was expected to provide protection of indigenous peoples' right to self-determination, to prevent a destruction of their cultures and the eco-systems in the forests surrounding their communities, in practice the formal legal protection has failed to provide such guarantees. Recent years have brought attention to a continuous large-scale colonisation of the indigenous territories on the Coast, and reports of settler violence against indigenous communities have been frequent (VOA 2017, Oakland Institute 2023).

The current land conflicts in Northern Nicaragua are often understood and described in terms of human rights violations, as settlers enter indigenous peoples' territories and breach their rights without sufficient and efficient response to these violations from authorities. While this is not wrong, my research on the ground reveals complexities in the conflicts over land ownership, that should be contemplated prudently in academic literature to comprehend the situation better. This article explores some of the roots to the conflicts that

occur both between the indigenous and the settlers who have recently arrived in the territories, but also within and between indigenous communities (Mayangna and Miskitu), due to widespread illegal sales of plots of land, or so called 'title-trafficking' with informal land titles.

The article is based on a review of documents, academic articles and reports prepared on agrarian conflicts in Mayangna territories in recent years, as well as on interviews and observations carried out in the North Caribbean region between 2017 and 2022. The interviews were carried out with leaders of the Mayangna communities, with settlers or third parties in the territories, with state officials (Police, Judiciary, mayoral and autonomous regional government officials), as well as with academics in the region, representatives of NGOs and representatives of mining and ranching companies. Observations were made in community meetings, in seminars on indigenous territorial management and autonomy, in visits to settlers' settlements, and in meetings held between representatives of indigenous communities and state bodies.

As a white Northern European researcher with a stipend from a European University, I am an outsider to the Mayangna community in Awas Tingni, and anything I can write in this article I owe to the assistance from and collaboration with community leaders in the North Caribbean region who invited me into their homes and their meetings and shared their time, their analyses, and their grievances with me. The issue of informal and illegal land sales in indigenous territories is a sensitive topic in the region, and the purpose of this article is not to point fingers or blame any of the inhabitants in the indigenous territories. Given my positionality and my privilege, I consider myself unqualified to pass judgement on those whose material conditions have been infinitely more difficult than mine. Rather, my purpose is to complicate the narrative about indigenous property rights, by demonstrating and explaining how a formally celebrated example of judicialization and land titling has resulted in a complex development that is currently fostering social conflict, environmental degradation, deforestation and loss of ancestral indigenous identity.

BACKGROUND: THE MAYANGNA COMMUNITY IN AWAS TINGNI AND THEIR STRUGGLE FOR TERRITORY

The village Awas Tingni lies at the junction of the river Awas Tingni and the river Wawa in the municipality of Waspán, which is the municipality with the largest geographical extent and the second most elevated poverty figures in Nicaragua, one of the poorest countries in Latin America in monetary terms. Some sources suggest that in the 'panamaka' language, one of three dialects spoken by the Mayangna, *Awas Tingni* means 'Pine River' (Anaya & Crider

1996). While I was in Awas Tingni, I learned that not all villagers agree with this translation. Some held that ‘Pine River’ would be a translation from the Miskitu language, while in panamaka the spelling of the name of the community ought to be ‘Â-was-Tingni’, which translates into the more dramatic name ‘Stream of the Blood River’.⁴ In any case, the history of the Mayangna people is inseparable from a history that has sometimes played out violently around the rivers in the North Eastern region of Nicaragua, perhaps most notably during the civil war in the 1980s (see i.e. Kinzer 2007 and Dunbar-Ortiz 2016).

The Mayangna are likely to descend from the earliest inhabitants in the lands known today as Nicaragua. For most contemporary residents in Awas Tingni, there is little doubt that the village and the lands surrounding it are their ‘ancestral home’. The elderly in the community tell stories about how, through great efforts, their forefathers came to settle in this part of the forest, in relative isolation, when other groups had forced them away from earlier dwellings. And for more than a hundred years, according to the elderly, the Awas Tingni community was engaged in an endeavour to demarcate these lands and demand that they be titled by the Nicaraguan state as their communal ancestral lands.⁵

Although all of Nicaragua was populated prior to European colonisation, the pursuit for indigenous autonomy in Nicaragua has often been associated with the country’s Caribbean Coast, also known as La Moskitia or the Mosquito Coast. This has to do with the fact that the Caribbean Coast was never conquered by the Spanish, due to fierce resistance from the pre-colonial inhabitants, an impenetrable geography, and a harsh climate (Gómez 1939). During the inter-colonial competition for control of the Caribbean, the British managed to establish trading ports along the Coast, actively facilitating the creation of a Mosquito Kingdom (1687–1860) and founding the Mosquito Coast as a British Protectorate (1740–1787) (Floyd 1967). When this arrangement ceased and Europeans lost control of Central America, La Moskitia came close to becoming an independent nation as the Central American Republics were formed. Moskitia (the Caribbean Coast) was not a part of the Nicaraguan state to begin with, and was only incorporated into Nicaragua (or overthrown, from the Moskitian perspective) in 1894 (Freeland 1988: 25–26). As the British were forced to give up their indirect rule and influence in the region, the issue of communal Indian land titles was codified in 1905 in the Harrison-Altamirano Treaty between Great Britain and Nicaragua, which guaranteed the right of Indians and Creoles of the former country of Mosquito to acquire and possess title to private and communal lands (Argüello 2016).

Indigeneity in Nicaragua has often been linked to the Caribbean Coast, while the Mestizo⁶ culture dominant on the Pacific Coast has been both understood and promoted as the national Nicaraguan culture per se. The perceived cultural differences between the Pacific and the

Caribbean Coasts have been considered by nation-state-builders as an obstacle to national unity and cohesion, especially in the face of foreign challenges to Nicaraguan sovereignty. Meanwhile, among the Caribbean peoples, and especially among the Miskitu, centralist Nicaraguan politics towards the Caribbean Coast have often been seen as colonial, racist and paternalist (Hale 1996).

The Mayangna and the Miskitu people are considered today as the main indigenous peoples in the Northern Caribbean region of Nicaragua and as the two largest indigenous groups in Nicaragua, and both the Mayangna and the Miskitu also live in the Southern Caribbean Coast of Honduras. Today the number of persons identifying as Mayangna would exceed 40,000 persons, and linguistically they are subdivided into four native language groups: Panamahka, Yuskú, Tuahka and Ulwah in Nicaragua and Tawahka in Honduras. The Miskitu are understood to be a ‘mix’ between indigenous groups and shipwrecked Africans that had been brought to the region by European slave traders, although discussion abounds about this (Pineda 2006).

For the Mayangna and Miskitu, the history of Nicaragua is largely a history of episodes of extermination and displacement of their peoples. The reductionist practices towards populations and culture that was employed with logistic support from the English and the Spanish (indirectly and directly), obliged them to settle in the interior of the Caribbean Coast of Nicaragua, where there is a rich biodiversity, and abundant natural resources underground, in forestry and hydraulics. Such resources were abundant in all of Nicaragua in earlier times, but have been affected by the over-exploitation of big forestry, mining and banana companies, especially during the time of the enclave economy (1880–1940), in which the Nicaraguan governments gave many concessions to transnational companies (Pineda 2006).

While modern statehood has turned the Wangki River into a border between Nicaragua and Honduras, for local Miskitu and Mayangna communities the river continues to be more of a transport way, a fishing and freshwater repository, a bathing place, a playground, and a place where spirits dwell and can carry you with them if you are not careful. The notion of a border seems fictional, dividing the communities from one side of the river from those on the other and classifying inhabitants of Moskitia into Nicaraguans or Hondurans, although most would always say first that they are Miskitu or Mayangna.

Conflicts relating to identity, culture and land use ignited and exploded in the Northern Caribbean region in the 1980s during the civil war, as the US-backed contra attempted to oust the socialist Sandinistas. While the Miskitu were initially allied with the Sandinista, the differing visions of land and identity later led Miskitu groups to form separate guerillas that would also cooperate with the contra against the Sandinista Army. The Mayangna were caught up in the middle of the fighting between

these groups in the North-eastern region, and most of the Awas Tingni community was forced to relocate to Honduras for ten years during the war. At the end of the war, the peace negotiations between armed Miskitu groups and the Sandinista Party led to the inclusion of promises of regional and indigenous autonomy in the Constitution, and in an actual Autonomy Statute (Law No. 28) from 1987, which established the rights of indigenous and afro-descendent communities to own and self-govern lands they had customarily used.

In this context, in the 1990s, the small Mayangna community in Awas Tingni became the central site of a larger social and legal mobilization for indigenous land title. As the community returned from Honduras after the war, they faced the task of rebuilding, and local and foreign NGOs rushed in to assist them. These efforts quickly expanded from reconstructing houses and re-establishing crops to raising a claim for demarcation and titling of the lands historically used by the community. Their claim was based on the Sandinista reforms, passed with the Constitution and Autonomy Law in 1987. Initially, the community leaders contested timber concessions that the Nicaraguan government had authorized to national and foreign companies who wanted to exploit forest resources on lands surrounding the village. The leaders in Awas Tingni were guided by Nicaraguan and foreign lawyers who gave them counselling and represented them in legal pleas with the private companies and with the government, as they asserted that the timber concessions had been made without their full knowledge and consent (Anaya & Crider 1996: 345–67).

Aided by the national and international professionals, the community connected the contractual disputes with the companies and the state to a broader claim for ancestral indigenous land rights and brought a land claim, first before national courts and then before the Inter-American Human Rights System. As the case was presented before the Inter-American Court of Human Rights (IACtHR) in San José, the team of lawyers that represented the Awas Tingni community argued for a re-interpretation of the right to property enshrined in the American Convention on Human Rights, to include the right to indigenous and ‘ancestral’ collective property. In doing so, they referred to the ILO Convention 169 on Indigenous and Tribal Peoples’ Rights and to Nicaragua’s Constitution and Autonomy Statute (Law no. 28) from 1987, which had specifically granted and guaranteed territorial rights to the indigenous peoples on the Caribbean Coast (see Law no. 28).

In this way, the Awas Tingni community came to the forefront of a movement for indigenous peoples’ land rights, which argued that collective indigenous property rights should be concretized and enforced by states to halt and prevent a continuation of the massacres, repression and cultural destruction that peoples classified as ‘native’

or ‘indigenous’ have been subject to in the Americas (and elsewhere) since the onset of European conquest and colonisation. Scholars such as Suárez-Krabbe and de Sousa Santos have argued that while displacement from or loss of control over a territory does not necessarily equal annihilation or genocide, it has often led to ethnocide or epistemicide when a people lost the space in which to reproduce their spiritual and cultural being in the world (Suárez-Krabbe 2016 & de Sousa Santos 2014). Following these lines of thought, the titling of lands as collective indigenous territories has been understood as a pre-condition for cultural survival, and as means to strengthening the cultural, social and economic rights of communities that classify as indigenous (although no clear definition of indigeneity exists).

After a long and ground-breaking legal process, the IACtHR ruled in 2001 that the state of Nicaragua had violated the rights of the Mayangna community in Awas Tingni, by conceding concessions to timber companies to log on indigenous lands without the consent of the community and by failing to recognize the property rights of the community to those lands. The IACtHR ruled that the Nicaraguan State should recognize and demarcate the lands as an indigenous ancestral territory and provide the Mayangna community with a collective land-title. It was the first time that an international court would order a state to title lands as indigenous communal property. Furthermore, the judgement did not only concern Awas Tingni, as it prescribed that Nicaragua should reform its land laws to provide all other indigenous and afro-descendent communities on the country’s Caribbean Coast with collective titles on their lands (Inter-American Court of Human Rights 2001).

The judgement in the case *Mayagna (Sumo) Awas Tingni v. Nicaragua* was the first ruling by an international court to directly order a state to title lands as indigenous territories, and for this reason it has been called a landmark sentence, an important precedent for indigenous peoples’ land rights and ‘a victory for indigenous peoples’ (Grossmann 2000 & Isa 2003). Among human rights lawyers and academics, the Awas Tingni case is known as a central example of the so-called legal-cartographic ‘territorial turn’ – which refers to an increasing judicialization and formalisation of indigenous peoples’ communal property rights in Latin America (Offen 2003, Hale 2005, Wainwright & Bryan 2009). Inevitably, Awas Tingni also became a reference for many other communities across the Latin American continent, who have strived to seek historical reparation, ensure protection in conflicts over land and resources, and establish autonomy and self-determination in their territories.

After the ground-breaking judgement of the IACtHR, human rights advocates, anthropologists and civil society mobilized extensively to implement the decision on the Caribbean Coast. In consultation with the concerned communities, they wanted to forge “a

new understanding of property that would correspond better to the worldview of the coastal peoples.” (Rivas & Broegaard 2006). These reflections fed into a legislative process and, two years after the IACtHR judgement had been pronounced, the Nicaraguan legislature adopted a comprehensive Law of Communal Property Regimes of the Indigenous Peoples and Ethnic Communities (Law no. 445). This law prescribes five phases in the process of recognition and formalization of indigenous property rights: demarcation, conflict resolution, marking, titling and title clearance (Law no. 445, 2003). Consequently, government officials, geographers and World Bank technicians undertook the task of delineating and demarcating the Awas Tingni territory and all other indigenous and afro-descendent territories on the Caribbean Coast (see Bryan & Wood 2015: 117–24).

In December 2008, seven years after the IACtHR judgment, the Nicaraguan state conveyed a title to ownership of 181,360 acres (73,394 hectares) of land to the Awas Tingni Community (CONADETI 2008). In 2009, an Awas Tingni community delegation travelled to San José, Costa Rica, to confirm in an audience before the Inter-American Court that their lands had been titled, and the IACtHR commended Nicaragua for complying fully with its judgement (IACtHR 2009). In the years to follow, a total of 23 indigenous and afro-descendent territories were titled on the Caribbean Coast, covering 31% of Nicaraguan territory and 54.7% of the lands on the Caribbean Coast.

SURROUNDED BY SETTLERS

Ten years after the Awas Tingni community was awarded a land title, when I started researching the implementation of the IACtHR judgement and the titling process and conducted fieldwork in Awas Tingni, the optimism that had surrounded the international legal victory had faded. Academics and human rights organisations had begun to describe an ‘implementation gap’ between the Awas Tingni judgement and its ‘expected results’ (see Isa 2017: 67–91). According to the human rights organisations on the Caribbean Coast, ‘title clearance’ (*saneamiento*) was meant to be the final phase of the implementation of the IACtHR judgement and was a requirement according to the Law No. 445. ‘Title clearance’ refers to the process of ordering the status of third parties within the indigenous territories, and according to the reports I could find at the time, this process had been fraught by a lack of response from relevant authorities, by a lack of coordination between responsible institutions, and by a lack of financial resources.

Human rights organisations on the Coast would report how ‘Mestizo settlers’ from the Western part of Nicaragua were consistently entering the lands of indigenous communities, lured by the fertile lands, the

precious timber and the gold reserves in the region (VOA 2017, Inter-American Court of Human Rights, 2016). These ‘mestizo’ settlers from other regions of Nicaragua had pushed the agricultural frontier North and East, and they now occupied the majority of the AMASAU territory.

Reports also suggested that, in the lands immediately adjacent to the Awas Tingni territory, various Mayangna and Miskitu communities were literally fighting against settlers from other parts of Nicaragua, who bought up illegal individual titles to the land, and that this went by with little interference from the state (OAS 2016). The indigenous groups had formed small armed militias to patrol their territories, to counteract the settlers who were also often armed. More than 52 people had allegedly been murdered in these conflicts in the foregoing years, and hundreds had been displaced to neighbouring Honduras.⁷

In other words, Mayangna control over the lands had not been effectively secured. Nor did territorial control seem to have been effectively secured for other indigenous and afro-descendent groups on the Caribbean Coast, as ‘title clearance’⁸ appeared complicated. While the land titles were meant to provide security and stability for indigenous communities, conflicts over the land and its resources had in fact intensified in Nicaragua’s North Caribbean Region in the years following the titling of indigenous lands.

Intrigued by these reports from the ground, I decided to reach out to *el Centro por la Justicia y los Derechos Humanos en la Costa Atlántica Norte* (CEJUDHCAN), one of the NGO’s working with indigenous land rights on the Caribbean Coast, to ask them if a study on the implementation and effects of the judgement in *Mayagna (Sumo) Awas Tingni v. Nicaragua* would be useful. Their answer was ‘yes’. Through CEJUDHCAN, I established contact with the leaders in Awas Tingni, who also welcomed the idea of such a study. They invited me to visit the territory and travel up the river Wawa to visit the settlers and inspect their activities.

PERMISSION TO SETTLE: TURNING LAND INTO PROPERTY

On our patrol of the territory, the river widens, and we must pass a place with strong currents. The mate in the back stays calmly clear of the big rocks visible through the pounding water, and the leaders smile at me. Next time, they keep saying, we should go on an expedition to the far limits of the territory, which would take days to reach from here. There is a certain optimism and hope, that I can assist them with the issue of the settlers, and even though I am not a lawyer they begin calling me ‘Doctora’, which is commonly used in Nicaragua for lawyers.

It is not the first time the Mayangna leaders have done this kind of patrol to monitor the situation in the territory.

Before the community received the title, around forty non-indigenous families were known and registered to be living in the lands that were transformed into AMASAU. When the Mayangna conducted a large-scale survey in the Awas Tingni territory in 2012, four years after the award of the communal property title, the Military and Police accompanied them on journeys that lasted a week at a time, to inspect the situation and collect data in the entire territory. They found 424 settler families, most of whom had arrived after the titling process. By 2017, the indigenous territorial government suggested the presence of more than 800 settler families, who were estimated to control around 90% of the lands that were titled in favour of the Mayangna community (*Gobierno Territorial de Awas Tingni*, 2012). As the Mayangna families in Awas Tingni only number around 300 families, they have been gradually outnumbered, and are now literally surrounded by the settlers. On our journey, we can only visit some of those settlers that have a somewhat friendly relationship with the community. 'But maybe you can come back another time', they say, sounding almost hopeful, 'and we can bring the army!'

We make another stop up-river, just beside a waterfall. Once again, one of the Mayangna men goes first, up the riverbank, to announce our visit. He comes back, chatting with another man, and waves us in. The terrain here has been cleared. The many black tree stumps are like dots in the open green field, and a path leads to a cabin that is built in a different style than the Mayangna stilt houses. In comparison to the simple stilt house constructions in the Awas Tingni village, this seems like a bigger house, it is raised directly on the ground and has two floors. We greet one of the sons of the household out front, with a sack slung over his back and a machete in his hands.

Inside in the shadow, a huge pile of dry corn is taking up a considerable part of the earth stamped floor. Food for cattle. A small container with fertilizer is standing next to it. An orange hammock is rocking from side to side. Pictures of Saint Mary and her child Jesús are hanging on the wall, testifying to the Catholicism that is usual and predominant in other regions of Nicaragua, in contrast to the indigenous territories on the Caribbean Coast, where most inhabitants are strongly affiliated with the Moravian Church. The interior of this house reminds me of Nicaraguan peasant villages I have visited on the Pacific Coast, as does the language and the accent of these people.

A weighty man sits in the door opening towards the back, his face in shadows and his figure blocking the light. A silver cross hangs from a chain around his neck, adorning his bare breast. His name is León. His wife, the mother of the household, is seemingly disturbed by our unannounced visit. 'Why are they here' she asks her husband? Then she nervously smiles at us and says she will go prepare juice for us, which she subsequently does, together with her daughters, in the rudimentary but large kitchen next door.

I explain that I am a researcher, and that I have come to investigate what has happened after the titling of these lands as an indigenous territory, and I ask the peasant man for permission to record our talk. He nods in agreement, and in response to my questions he explains that they have been living here for two and a half years, that they came from La Cruz del Rio Grande in the Southern Caribbean region because there was no more land to work there, no means with which to sustain themselves. They heard about this land here from a friend, Carlitos, who advised them to come. Carlitos has a farm close to here. I ask how they managed to buy the land, and they explain that they bought it from one of the Mayangna elders, Don Ambrosio.

Most of the Mayangna in our delegation are seated on a bench next to the wall, now holding blue plastic cups containing fruit juice. They are quiet and serious, especially now, after Don León's last revealing response. Nelson is holding the rifle upwards between his legs, with the mouth pointing towards the roof. He is leaning towards it, his lower legs are crossed, and his facial expression is tired and thoughtful.

The Mayangna leaders have asked me to try to convince the settlers to show us their 'permit' or 'title document' that they have received in return for money. I ask if they have one, and they concede that they do. I ask if I can see it, but the woman of the household has re-entered the conversation and is uneasy about it and asks why we would need to see that. Marlon Hendrix, the secretary of the Awas Tingni government, explains calmly that I am a researcher from Denmark, a lawyer, and that I have come to see the document, and we explain that this is indigenous territory. The settlers already know this. But do they also know that this land is inalienable, indivisible, and not meant for sale – especially not to outsiders? They cringe and twist their hands.

I try to ease the tension by asking a few other questions about their lives. *You grow corn here, I see, and do you have cattle also? Just a few*, he says, and the Mayangna start laughing, *ha-ha, just a few*, and he laughs heartily with them, *just a few 300 heads of cattle, ha-ha*. And do the children attend school? They do. Then I ease back into the question about the document, by saying that I am not here to decide on anything, I merely want to contribute to recollect some information so that we can understand what has happened with the land and so that they might find a good solution to these legal problems here.

The cattle farmers' wife goes upstairs and swiftly comes down to present us with the documents. The first one is a handwritten document dated 10 November 2014, which has apparently been signed by Don Ambrosio, but also by two representatives of the Awas Tingni government at the time. They have even sealed the document with their light blue stamps. It gives the settler family an indefinite permit to remain on these 70

hectares (100 *manzanas*) of land against the payment of 140,000 Córdoba (roughly 6,000 USD).

The other two handwritten agreements are from 2015 and 2016, and they document how Don León and his family have expanded their agricultural activity to another 93 *manzanas* of land. They are also signed by authorities from Awas Tingni, and by Carlitos from the neighbouring settler farm – apparently an active facilitator in these deals. In these documents Don León agrees to follow the rules stipulated by the indigenous territorial government in return for the right to work the land.

As we walk back towards the canoe, Amélia tells me I did well. *'They almost never want to show us the documents'*, she says *'and you managed to have them do it'*. I am happy they are satisfied, but I am also worried and confused. How will the leaders act upon this information? What made them sell the land? Do we know for sure that the former leaders signed the documents, or could the signatures and stamps have been forged, as Amélia tells me it happens sometimes? What will happen to Don Ambrosio now? What will happen to Don León and his family? What kinds of conflicts could these revelations unleash?

After visiting two more settler families, listening to similar stories and seeing similar 'title' documents, we head back in the canoe towards the Awas Tingni village. As we return to the shores near the village, Amélia and I sit on the rocks and talk about the trade with the informal and 'illegal' permits to settle. The current Mayangna leaders call them 'vicious' titles. Amélia tells me the names of some of those Mayangna leaders who have sold most of these permits. Some of them are the very same leaders who were involved twenty years ago in bringing the lawsuit before the Inter-American Court of Human Rights. *'One of the leaders bought a truck with the money from the sales'* she says *'and another bought a motorcycle and fertilizer. But they do not want to admit it. Sometimes I think this was always their plan when we went to Court, to sell off the lands afterwards'*. She sighs, and we both start walking up towards the village.

MANAGING SETTLER RELATIONS AND PROTECTING THE ECO-SYSTEM IN A CONTEXT OF COLONISATION

The Mayangna explained to me that various state actors and companies present in the territories have been involved in the illegal sales of land, and that the onset of these sales and the arrival of settlers coincided with the award of the collective land title in Awas Tingni. On January 1, 2009, about two weeks after Awas Tingni received its collective property title in December 2008, an ex-combatant collective residing in the south of the territory (the only non-Mayangna third parties present in the territory at the time) sold about 30,000 acres (12,000 hectares) of the land to a French timber company named

MAPINICSA S/A. in an illegal land deal. MAPINICSA had obtained the funds for their acquisition and investments through the World Bank and the IFC (International Finance Corporation) that were conducting a project to support forestry development in the North Caribbean Region following Hurricane Felix.

Even before Awas Tingni leaders had begun negotiations with the company about their presence in the territory, the MAPINICSA project had constructed a road in the southern part of the territory to transport timber out. This road soon became a point of entry for other settlers who have since arrived in a steady stream, sometimes by foot, sometimes with vehicles, and often with a herd of cattle. Once one settler family has arrived, they tell other families in their hometowns about the abundance and availability of lands around Awas Tingni. This way a network of settlements has evolved.

Community authorities in Awas Tingni have denounced the illegal selling and buying of community plots of land that is formally inalienable, indivisible, and un-sellable, filing more than 200 accusations with the police and making claims before the courts. The official response to these denunciations has been limited. Although the government formed an Inter-Institutional Commission lead by the General Prosecutor to investigate the illegal sales, and although state authorities participated in the large survey in AMASAU in 2012, national and regional government responses to the accelerated colonisation of the Northern Caribbean region is considered by communities and human rights organisations to be deficient. In fact, some claim that the government is supporting settler communities. An often-mentioned argument for this is that they allow funds from the Ministry of Education to reach schools in the new settler communities and provide settler communities, as well as indigenous communities, with zinc plates for their roofs and vaccination programs. Officials from the Sandinista Ministry of Education confirmed this to me, arguing that it is also a human right for settlers' children to attend school.

The settlers in the Awas Tingni territory are not a uniform group. Many are families of scarce resources, who enter the territory in search of a better life. However, some third parties involved in the land deals are non-residents with greater economic capacities or ties to wealthier individuals, who simply invest economically in the land and employ less wealthy peasant families to protect their investments. The families that we visited on the trip described here were humble peasants, but they nevertheless cleared more terrain than the Mayangna do on their smaller traditional family *fincas* with slash-and-burn agriculture.

Community leaders in Awas Tingni are not insensitive to the fact that many settlers are rather poor, and they are willing to make room for newcomers and allow them to have schooling and medical services provided by the state if settler communities agree to respect the norms and regulations of the Mayangna community. The community

assembly elaborated and approved a territorial ordinance plan ubicating settlers on the fringes of the territory and establishing a possibility to rent the land. However, till this day, no such legal rental contract has been made and the more than 1.000 settler families in the territory are thus formally occupying the land illegally.

As the ethnographic excerpt above shows, and as I was able to confirm time and again during more than 70 interviews in the North Caribbean region conducted over six years of research, the illegal sales of land in indigenous territories have also often been made with the endorsement of indigenous leaders who, without the consensus and approval of the communal assemblies, validate the transactions. The engagement of many community members and leaders in this “title-trafficking” and the simultaneous engagement in the “indigenous human rights discourse” is creating a situation of ‘double-discourse’ where communities have trouble discussing their problems openly and without ending up in fingerpointing and blame. Often, it appears that the same community member or leader will employ different sets of norms and values in different situations, based on their particular interests. This has created internal tension and disagreement over the meaning of the communal property title and the related norms regarding “indigenous territorial governance.”

The arrival of the settlers and their subsequent transformation of the land and eco-system has seriously hampered the possibilities for the Mayangna in Awas Tingni to hunt and fish. The rate of deforestation has escalated rapidly as settlers clear forest for pasture and grain planting. Game such as wild boar and monkeys disappear when the forest is cut down and the river is affected by chemicals and the faecal waste of humans and cattle that run into the water.

As we visited the settlers, the Mayangna leaders conveyed one of their major concerns to them – that they should stop clearing forest along the riverbanks. The clearing of trees on the riverbanks increases the risk of the river overflowing its banks during the rainy season, which can result in mud slides that worsen the effects of natural disasters such as Hurricane Mitch in 1998 and Hurricane Felix in 2007. Also, by cutting down trees on the riverbank, the natural filtration system is damaged and the water in the river is polluted.

This is only one example of the instructions that the Mayangna leaders continuously attempt to convey to the settlers about how to respect the fragile eco-system in the forested territory. However, strong forces are at play, as state authorities and large-scale private interests also advance the process of settler colonisation, and some have affiliations to military fractions or armed groups. Due to their material poverty, the Mayangna are susceptible to the temptations of monetary gain and to offers of cooperation and employment from settlers, and if they defend the communal territory they run the risk

of being subjected to threats or attacks from militants. During the years of this study, I have witnessed the Mayangna succumbing to the settlers’ ways, not only with regards to the monetization of land, but also with respect to construction methods, cultivation of crops and cultivation methods that yield intensified gain, the introduction of horses as a means of transportation and other cultural changes. When I last visited Awas Tingni in 2021, settlers had even built houses and shops inside the main Awas Tingni community, including clothing shops, a pharmacy with modern pharmaceuticals and a hotel with a restaurant where settlers could stay before exploring lands and business opportunities in the territory.

Since my first visits to the Awas Tingni territory, conflicts around the land and its resources have only escalated both in Awas Tingni and in neighbouring Mayangna and Miskitu territories, as documented by the indigenous organisations themselves (MAWARAT 2023, *Harvard International Review* 2021).

Conflicts between the indigenous inhabitants and the newcomers settlers are rooted in a breach of understanding between ‘indigenous peoples’ and ‘settlers’ that is in some ways real and in some ways imaginary. While cultural differences affect language, livelihood, land use and cultivation methods, such practices are also always subject to change. The Mayangna understand this and attempt to influence the newcomers and regulate their behaviors to limit deforestation and destruction of rivers and eco-systems, but both the settlers and the Mayangna are ultimately influenced by a rapidly globalizing world and a hasty development around them that is difficult to contain.

Mayangna identity, culture and language is threatened by the hegemonic Nicaraguan national culture that settlers bring with them, even if the two groups also have more shared features and history than is commonly acknowledged in the human rights discourse. Both groups are mainly rural peasants who live of the land and its resources and organize primarily in large family households and secondarily in communities, and while settlers may have been dissociated from their indigenous origins in the sense that they no longer speak an indigenous language, they may still uphold certain ancestral indigenous principles regarding communal life and practices to cultivate the land. Conversely, Mayangna or Miskitu heritage is no guarantee that a given individual would never participate in practices that are harmful to the environment or the community.

What I learned through my research was also that the conflicts over the land and its resources are not merely between the indigenous and the settlers, as tension is also rife within and between indigenous communities. Conflicts within and between indigenous communities relate to the responsibility for the illegal sales of land and the question of unequally distributed profits from these sales. Some Mayangna leaders and academics, perhaps

especially those residing and working in the cities, argue that anyone involved in the illegal land deals should be legally charged and imprisoned for their corruption. While this rhetoric can appear a just and sensible stand for human rights, my sentiment is that, by now, so many in the communities have participated in or benefitted from the illegal transactions in some way, that almost entire communities would have to be processed and incarcerated if this principle was applied all the way through – in a culture where incarceration has not been the norm before. Many of those who agreed to sell plots of land in the beginning might have expected Police and state officials to later evict the settlers, and many who sold in later years did so knowing that settlers would remain whether they gained from it or not. And although what they did was illegal, it can be discussed how solidaric and meaningful it is to punish poor indigenous communities and individuals for taking advantage of their property holdings and the influx of settlers to improve their livelihoods and material conditions.

CONCLUSION

During the neoliberal and multicultural 1990s, both environmental and human rights organisations became increasingly involved in the Northern Caribbean region in post-war Nicaragua. As the peoples of this plurilingual region attempted to recommence their lives, both national and foreign NGOs rushed in to assist them, and efforts to improve livelihoods and sustainable forest management became interlinked with efforts to map and delineate indigenous territorial claims.

The international legal mobilization for their indigenous property rights and the sentence by the Inter American Court of Human Rights in their case made the Awas Tingni community quite famous among activists, lawyers and academics working with indigenous peoples' rights.

While the titling of collective indigenous territories was meant to bring stability, security, and sustainable development, in practice the indigenous land titling programmes have been followed by a monetization and transferability of the land that is causing great tension, insecurity and tragedy in the territories titled in the name of the Mayangna and Miskitu communities.

It is difficult to say whether there is any direct causal relationship between the judicialization of indigenous territorial claims and the following process of settlement from outsiders and commodification of the lands, as occupation and colonisation of Mayangna and Miskitu lands might also have occurred without titling. However, as many theorists have pointed out, individual land titling is a process that was always meant to stimulate land markets and increase the ease with which such land is transferred (see Keenan 2018), and possibly the

characteristics of the individual land title have rubbed off on the communal indigenous property title although the purpose of this title was officially very different.

A property title is essentially a proof of ownership, and land titles tend to represent the land as a transferable and/or economic resource. Even if the land title is officially indigenous, collective, inalienable and indivisible, in practice it might still be interpreted to retain the features of the private land title, and even though land titling programs aim to create collective territories, the land might end up divided in smaller plots, perhaps even with private titles.⁹ This is especially true if indigenous territorial governance structures are weakly organized, lack resources, support and knowledge to defend themselves in interactions with private actors and state authorities. Moreover, it is not uncomplicated to treat territory and property as coherent and mutually supportive logics in indigenous land claims, especially since territorially bounded indigeneity holds an awkward articulation with racial regimes of ownership (Anthias 2019).

My research thus underscores, that for indigenous communities the pursuit of communal land titles remains a complex affair. In land titling processes communities have to move into, speak to and through institutions and legal systems that are not their own, and in some ways they remain dependent on those systems for territorial autonomy to function post-titling. The aftermath of judicialization of their land claims can leave communities just as vulnerable as they were before, if their language and motivation is not thoroughly understood by all actors around them and upheld continuously by themselves as a collective, even under dire challenges. If this fails, ultimately the communal land title will not provide any protection.

Coming myself from a country of sea and no rivers, as well as a country that has cut down nearly all of its primary forest, I only learnt in North Eastern Nicaragua to appreciate the more profound implications, meanings and uses of rivers and forests. Through my involvement with the Mayangna, the Miskitu and the settlers in their territories I also came to see the web of contestations currently forming of and around these meanings and uses. While some of these contestations can and have been expressed in the language of human rights, in the attempt to promote cultural survival and diversity and protect ecosystems, I contend here that there are also meanings of ancestral and spiritual history, eco semiotics and interdependence between nature and culture that might not yet translate so easily into a European or Republican language of rights.

NOTES

- 1 The terms Mayagna, Mayangna, Sumu or Sumo are used interchangeably, but Mayangna (in the Spanish spelling) or Mayagna (anglicized spelling) is the preferred term of the communities themselves, and it has largely replaced the term

Sumo that was widely used until the 1990s. Some will hold that the term Sumu (Sumo in the anglicized spelling) originated outside the communities and is a Miskito word. Others assure that Sumo was the designation for the group in earlier times, but that because it was used in a mocking and contemptuous way, the group decided to leave it behind. See i.e. Anaya 1996: 349 and Freeland 1988: 9.

- 2 While I wish to mention and accredit those who contributed to make this study possible for their work and support, I have ultimately decided to use pseudonyms for names mentioned in this text, to protect the individuals represented from possible repercussions of being mentioned here. I instead extend my gratitude to the whole of the Awas Tingni community and their leadership for welcoming me and treating me so well each time I visited.
- 3 RACCN is short for the Spanish *Región Autónoma de la Costa Caribe Norte* earlier known as the RAAN, *Región Autónoma del Atlántico Norte*, and before that as *Zelaya Norte*.
- 4 I became acquainted with the discussions about the name of the village Awas Tingni in a workshop held with the youngsters there in 2017.
- 5 I learned first about the endeavours for land titling from conversations with community members in Awas Tingni, including with representatives from the Council of the Elderly in 2017.
- 6 Mestizo is a term used in Latin America to refer to a 'mixture' of pre-colonial and European. *Mestizaje* is widely discussed in Latin American critical thinking, as it can both be understood as an ideology of whiteness and domination, an identity used strategically by racialized populations on the continent and a category sometimes redefined 'from below'. See discussions about this in Hale 1996 and Suárez-Krabbe 2016.
- 7 Further South on the Caribbean Coast, the Nicaraguan state had granted a concession to the Chinese company HKND for the construction of an Inter-oceanic canal and a deep-water port in territories that had been titled to Rama communities and Creole afro-descendent groups. According to human rights organisations such as Centro de Asistencia Legal a Pueblos Indígenas (CALPI) and Centro por la Justicia y los Derechos Humanos en la Costa Atlántica Norte (CEJUDHCAN), these concessions constituted a clear violation of the rights of these communities to free, prior and informed consultation. Reports can be found on the webpages of these organisations.
- 8 Title clearance is meant to resolve the presence of third parties and prevent invasions in indigenous lands. See Law no. 445, 2003.
- 9 Based on fieldwork in Indonesia, Franz and Keebet von Benda-Beckmann have suggested that even though land titling programs aim to create collective territories, the land might end up divided in smaller plots, perhaps even with private titles. See von Benda-Beckmann, von Benda-Beckmann, and Wiber 2006.

FUNDING INFORMATION

The fieldwork conducted for this study was made possible by a Small Grant from the Law and Society Association and by fieldwork grants from the European University Institute.

COMPETING INTERESTS

The author has no competing interests to declare.

AUTHOR AFFILIATIONS

Julie Wetterslev  orcid.org/0000-0001-8102-5223
European University Institute, Florence, Italy

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TO CITE THIS ARTICLE:

Wetterslev, J. 2024. When the Forest and the Rivers is Home – Managing Indigenous Territory and Settler Relations in North Eastern Nicaragua. *Iberoamericana – Nordic Journal of Latin American and Caribbean Studies*, 53(1): 31–43. DOI: <https://doi.org/10.16993/iberoamericana.616>

Submitted: 16 August 2023 **Accepted:** 16 January 2024 **Published:** 19 March 2024

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Iberoamericana – Nordic Journal of Latin American and Caribbean Studies is a peer-reviewed open access journal published by Stockholm University Press.

