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العنصرية والتمييز العنصري وكره الأجانب وجميع أشكال التمييز

تقرير المقرر الخاص المعني بالأشكال المعاصرة للعنصرية والتمييز العنصري

وكره الأجانب وما يتصل بذلك من تعصب، السيد دودو ديين

إضافة **

البعثة إلى نيكاراغوا

* يُعمم موجز هذا التقرير بجميع اللغات الرسمية. ويُستنسخ التقرير ذاته، الوارد في مرفق هذه الوثيقة، باللغة التي قدم بها (الفرنسية)، ويُترجم إلى الإسبانية والإنكليزية.
** تأخر تقديم هذا التقرير لكي يعكس أحدث المعلومات.

موجز

في الفترة من ٢٦ حزيران/يونيه إلى ١٣ تموز/يوليه ٢٠٠٤، قام المقرر الخاص بزيارة إقليمية إلى أمريكا الوسطى. فزار غواتيمالا ونيكاراغوا وهندوراس بدعوة من حكومة كل من هذه البلدان. وكان الدافع إلى إجراء هذه البعثة الإقليمية ضرورة إسهام المقرر الخاص في توضيح عاملين رئيسيين في إشكالية العنصرية، لهما أهمية بالغة في هذه المنطقة، وهما: (١) عمق الموروث التاريخي للعنصرية والتمييز العنصري الذي كان يشكل الدعامة الإيديولوجية لنظامي الرق والاستعمار، والذي أثر تأثيراً عميقاً في تشكيل المجتمعات في هذه البلدان؛ (٢) وتأثير العنف السياسي الذي دمج تاريخ أمريكا الوسطى في الآونة الأخيرة على المجتمعات المحلية التي تعرضت للتمييز على مر التاريخ، أي السكان الأصليين والسكان المنحدرين من أصل أفريقي. الأمر يتعلق إذن ببلدان تتشابه سماتها الجغرافية والإثنية ولها موروث تاريخي وسياسي مشترك. ولما كانت هذه البلدان تمر بمرحلة انتقال نحو بناء السلام، والتضامن الاجتماعي، وتوطيد الديمقراطية، فإنها تكتسب أهمية خاصة من حيث هيكلية وإدارة التعددية الإثنية والعنصرية والثقافية.

وقد وجد المقرر الخاص ثلاثة مظاهر في البلدان الثلاثة تعبر عن واقع ينم عن تمييز متأصل، وهذه المظاهر هي: (١) توافق محير بين خريطة الفقر وخريطة المجتمعات المحلية للشعوب الأصلية والمجتمعات المحلية المنحدرة من أصل أفريقي؛ (٢) ومشاركة هامشية من ممثلي هؤلاء السكان في هياكل السلطة - الحكومة، والبرلمان، والسلطة القضائية - فضلاً عن وجودهم غير المؤثر في هياكل السلطة وبوسائط الإعلام؛ (٣) وصورة فلكلورية لهؤلاء السكان في المحتوى الإعلامي.

كما خلص المقرر الخاص إلى وجود ضعف، بدرجات متفاوتة في هذه البلدان الثلاثة، في إدراك عمق وجود التمييز وترسخه على مستوى السلطات السياسية وبين السكان برمتهم.

غير أن المقرر الخاص يستنتج من أقوال من تحدث معهم من المجتمع المدني، وكذلك من شهادات أعضاء ومثلي كافة المجتمعات المحلية المعنية، أن المجتمع في غواتيمالا ونيكاراغوا وهندوراس لا يزال شديد التأثر بالتحيز العنصري والممارسات التمييزية تجاه السكان الأصليين، وهو تحيز موروث عن الغزو الاستعماري ونظام الرق اللذين تسببا، باسترقاق هؤلاء السكان وبالتقليل من شأن هويتهم وثقافتهم استناداً إلى إيديولوجية بينة العنصرية، في تنظيم حقيقي لتهميشهم بصورة دائمة على كل من الصعيد السياسي والاجتماعي والاقتصادي والثقافي. وعلى الرغم من الادعاء المبدئي لطابع التعددية الثقافية، فإن الموروث والهوية الإيبانيين في هذه البلدان يقدمان على مورثاتها من الشعوب الأصلية، أي سكانها المنحدرين من أصل أفريقي وسكانها الأصليين، التي حُصرت في الأبعاد الفلكلورية. ويتجلى الرفض السياسي والثقافي والاجتماعي لواقع التعددية الإثنية على نحو خاص في الحياة اليومية، من خلال أفعال تمييزية مثل تكرار منع الوصول إلى الأماكن المفتوحة أمام الجماهير. ويشكل رفض التعبير عن الهوية واحداً من أبلغ أشكال التمييز. كما أن عدم كفاية الخدمات العامة - التعليم والصحة والعدل بصفة خاصة - في مناطق سكنى هذه المجتمعات المحلية وانعدام ثنائية اللغة الفعلية يشكلان مظهرين موضوعيين لقصور

الاندماج الاجتماعي والثقافي لهؤلاء السكان. ومن ثم، لا تزال مؤشرات الصحة والتعليم والإسكان المتعلقة بهؤلاء السكان منخفضة عن بقية السكان.

وفي نيكاراغوا، كما في هندوراس، رأت الحكومة أن العنصرية والتمييز العنصري لا وجود لهما في البلد. فتعقد حالة السكان الإثنية والعنصرية الناتج عن التزاوج يجعل احتمالات التعبير عن هذه المظاهر غير واردة. غير أن ممثلي السكان الأصليين والسكان المنحدرين من أصل أفريقي يرون أنهم يقعون ضحايا للعنصرية والتمييز العنصري. ثم إن التمييز التاريخي الذي تعرض له هؤلاء السكان زاد من حدته العنف السياسي الذي عانى منه هذا البلد، وبخاصة استخدام هؤلاء السكان كوسيلة سياسية واجتماعية وعسكرية من قبل كافة فصائل النزاع الداخلي في نيكاراغوا. ويرجع السبب في معاناتهم إلى جملة أمور منها عدم احترام هوياتهم الثقافية وحقوقهم في الأرض، وقلة استثمارات الدولة في المناطق التي يعيشون فيها، فضلاً عن تمثيلهم غير المؤثر داخل أجهزة السلطة. وقد توصل المقرر الخاص إلى وجود تباين إثني - اجتماعي - اقتصادي عميق بين المناطق المطلة على المحيط الهادئ وتلك المطلة على المحيط الأطلسي. فلا تزال في المناطق المطلة على المحيط الهادئ أغلبية من المولدين (Mestizo)، إلى جانب بعض المجتمعات المحلية من الشعوب الأصلية، وتشهد هذه المناطق عملية تنمية نسبية، في حين أن المناطق المطلة على المحيط الأطلسي، التي يسكنها بصفة أساسية سكان أصليون وسكان منحدرين من أصل أفريقي، معزولة ومحرومة من الحد الأدنى من الهياكل الأساسية. وفي نيكاراغوا، كما في غواتيمالا وهندوراس، تتطابق خريطة الفقر والتهميش الاقتصادي والاجتماعي مع التوزيع الجغرافي للسكان الذين يعتبرون أنفسهم ضحايا للتمييز. وقد أرسى الحكم الذاتي الممنوح للمناطق الواقعة شمالي وجنوبي المحيط الأطلسي (منطقة شمال الأطلسي المتمتعة بالحكم الذاتي، ومنطقة جنوب الأطلسي المتمتعة بالحكم الذاتي)، القواعد المؤسسية التي تتيح لسكان هاتين المنطقتين إعداد خططهم الإنمائية وتنفيذها، ولكن عدم كفاية الموارد المالية المقدمة من الحكومة المركزية لم تسمح لهم بعد بالتمتع الفعلي بهذه اللامركزية.

ولئن كان المقرر الخاص يدرك الصعوبات الاقتصادية التي تواجهها نيكاراغوا منذ عدة عقود إثر النزاعات الداخلية والكوارث الطبيعية التي تعرضت لها، فإنه يرى أنه كان ينبغي للحكومة أن تنصت باهتمام أكبر إلى السكان الذين ينبغي، اعتباراً من الآن، الاعتراف بحالة التمييز التي يتعرضون لها بشكل موضوعي، ومعالجة هذه الحالة بكافة أبعادها (الثقافية والاقتصادية والاجتماعية)، بواسطة برنامج وطني لمكافحة العنصرية والتمييز العنصري، وبإقامة تعددية ثقافية ديمقراطية وتفاعلية تنتهج المساواة. وينبغي التشاور بشكل أكبر مع قادة وسكان المناطق المتمتعة بالحكم الذاتي المطلة على المحيط الأطلسي، بغية تحديد المجالات الاقتصادية والاجتماعية التي تتطلب تدخلاً على سبيل الأولوية وتخصيص الموارد الكافية لها. كما يرى المقرر الخاص أن عملية توزيع سندات الملكية العقارية للسكان الأصليين ينبغي أن تراعي عاداتهم وتقاليدهم وأن يتوخى فيها عدم الإضرار بمصالحهم وحقوقهم التاريخية. وينبغي للحكومة، في هذا الشأن، أن تفكر في التصديق على اتفاقية منظمة العمل الدولية رقم 169 المتعلقة بالشعوب الأصلية والقبلية، ووضعها موضع التنفيذ.

Annex

**REPORT OF THE SPECIAL RAPPORTEUR ON CONTEMPORARY
FORMS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA
AND RELATED INTOLERANCE, MR. DOUDOU DIÈNE, ON HIS
MISSION TO NICARAGUA (9 TO 13 JULY 2004)**

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Introduction

1. The Special Rapporteur visited Nicaragua from 9 to 13 July 2004. In Managua he met the Minister for Foreign Affairs, Mr. Norman Caldera Cardenal, the Deputy Minister of the Interior, Mr. Miguel Ángel García, and senior officials of the Ministries of Education, Health and Labour. He also met the Presidential Adviser on Atlantic Coast Affairs, Mr. Carlos Hurtado, as well as the Special Procurator for Indigenous Peoples and Ethnic Communities, Mr. Norman Bent. He then travelled to Puerto Cabezas (Bilwi for the local people), the capital of the Atlántico Norte Autonomous Region, where he held meetings with the Regional Council led by Mr. Juan González. His journey to this region also offered an opportunity to visit residential areas and listen to representatives of the various communities living there, including the Miskitos, the Sumu-Mayagnas and the Creoles of African descent. Regrettably, lack of time prevented the Special Rapporteur from travelling to the Atlántico Sur Autonomous Region, whose capital is Bluefields, to study the dynamics of ethnic and racial relations among Creoles, Miskitos, Mestizos, Garifunas and Ramas. However, he was able to gain a general idea of the situation in the region from representatives of the communities living there who came to meet him in Puerto Cabezas and Managua, and from the report of the Centre for Human, Citizens' and Autonomy Rights he was given.¹ The Special Rapporteur's second journey within Nicaragua took him to San Lucas, in the region of Somoto, north of Managua, where he held a meeting with representatives of indigenous people.

2. The Special Rapporteur thanks the Government of Nicaragua for its cooperation and for the willingness of its representatives to make themselves available. He is also grateful to the regional authorities and the representatives of civil society, in particular the representatives of the indigenous and Creole communities with whom he held meetings. He also expresses appreciation to the office of the United Nations Development Programme in Nicaragua, which coordinated the visit. However, he regrets that he was unable to meet all the representatives of United Nations agencies, as in Guatemala and Honduras. In the light of the meeting he held with the acting Coordinator of the United Nations system, he has doubts concerning the priority assigned to efforts to combat racial discrimination in the programmes of United Nations agencies.

I. GENERAL OVERVIEW

A. Ethnic and demographic situation

3. Nicaragua, which covers an area of 129,494 square kilometres, has a population of 5,359,759, generally divided into four groups: Mestizos (of mixed Amerindian and White descent) (69 per cent); Whites (17 per cent); Blacks (9 per cent); and Amerindians (5 per cent). The Amerindians are subdivided into six ethnic groups - the Miskitos (the largest group, with over 80,000 members), the Sumus-Mayangnas, the Ramas, the Matagalpas, the Chorotegas, the Maribios and the Nahuatlan. The Blacks are subdivided into Garifunas (2,000) and Creoles (around 30,000). The Amerindian and Black communities live mainly in the Atlántico Norte and Atlántico Sur autonomous regions, along Nicaragua's Caribbean coast, where almost 10 per cent of the country's population (500,000 inhabitants) is to be found. A few indigenous communities also live in the north-west.²

B. Political and social context

4. Between 1979 and 1990, Nicaragua experienced periods of revolution and counter-revolution which had a deep influence on the structure of the country's political life. Following the triumph of the Sandinist revolution in 1979, the rule of the socialist Sandinist National Liberation Front (FSLN) from 1979 to 1990 was marked by the counter-revolutionary war pursued by the Contras, with external support, principally from the United States of America, and sustained by the claims of the Miskitos, Sumus and Ramas in the Atlantic region for autonomy. The indigenous people of the Atlantic region, who were the main instrument of the counter-revolution, fiercely opposed the Sandinist authorities, rejecting the Sandinist Government's agrarian policy and demanding autonomy. The Sandinist Government finally agreed to negotiate with them during the peace process which began in 1984, and showed a readiness to listen to their demands. Settlement of the conflict resulted in guarantees of the rights of the indigenous peoples and other groups in the Atlantic region under the 1987 Constitution, and the creation of two autonomous regions, a largely Miskito one in the north and a largely Mestizo and Creole one in the south.

5. In 1990, the FSLN lost power to a coalition of centre-right parties. A difficult process of reconciliation between Sandinists, the democratic opposition and the Contras followed, marked by brief returns to rebellion by the Contras. The consolidation of democracy in Nicaragua continued with the presidential elections of 1996 and 2001. President Enrique Bolaños, of the Constitutional Liberal Party, won the most recent elections under the banner of a "New era", during which he promises the people of Nicaragua progress towards greater well-being, overcoming poverty and improving health and education. This new era is also to be devoted to building a new relationship between the State and its citizens, based on a political and social ethic whose main pillars are justice for all, representative government, effective participation by the people, transparency and solidarity with the least well-off.³ Significant initiatives have been launched in the area of respect for human rights, in particular by enhancing the independence of the system of justice.

6. In Nicaragua, the social, economic and political rift between the Pacific and Atlantic regions is a reality, for historical and cultural reasons and also because of more recent factors such as the Sandinist revolution mentioned above, foreign influences and economic interests and ethnic demands. Between the seventeenth and nineteenth centuries, the Atlantic coast of what was to become Nicaragua was under English influence, and from 1633 onwards the Miskitos became the allies of the English in their struggle against the Spanish settlements on the Atlantic coast. In order to gain the sympathies of the Miskitos, the English went so far as to crown a Miskito king and establish a protectorate along the Atlantic coast to enable them to control the region's natural resources. In 1860, the British signed the Treaty of Managua with Nicaragua and dropped their claims along the Atlantic coast, leaving a kind of indigenous autonomous area there. The Miskitos' strong sense of autonomy and the penetration of English-speaking culture which is characteristic of the Atlantic regions date from this period. Only in 1884 were the Atlantic regions formally incorporated into Nicaragua.

7. While the Mestizos are overwhelmingly Catholic, most of the members of the other ethnic groups belong to Protestant churches, notably the Moravian Protestant Church, which played a role with British administrators in shaping the institutions of the Atlantic coast.⁴

8. Among these peoples of Amerindian origin, only the Miskitos and Sumus-Mayangnas still use their ancestral language. Nowadays the members of the Miskito community are very active politically and work together in the Yatama political party.

9. The succession of natural disasters between 1988 and 1998, including Hurricane Mitch, which devastated most of Nicaragua's economic infrastructure and further impoverished the country, have not made the implementation of development programmes any easier.

10. In analysing the situation in Nicaragua, it must also be remembered that because of its strategic position between North and South America, Nicaragua has often been the focus of struggles for domination and occupation between the Spanish and British colonial Powers, and later American interests.

II. POLITICAL AND LEGAL STRATEGY AND INSTITUTIONAL FRAMEWORK

A. Institutional multiculturalism

11. Article 8 of Nicaragua's Constitution acknowledges the multi-ethnic character of the country, and guarantees specific rights for the indigenous peoples. These are recognized in article 5 of the 1995 Constitution (Partial Reform) Act. Regional autonomy for these peoples, which resulted from the political process of the 1980s, marked by the claims and struggles of the peoples of the Atlantic coast, has also been enshrined in the Constitution, thus consolidating significant progress as regards ethnic collective rights. Under articles 89 to 91 of the Constitution, the communities of the Atlantic coast have the right to preserve and develop their cultural identity and adopt their own forms of social organization, and to administer their affairs in accordance with their traditions. The State also recognizes the communal land ownership practised by these communities and their right to enjoy the flora, fauna and waters of their region. Article 91 underlines the State's duty to enact legislation aimed at protecting all Nicaraguans from discrimination based on language, culture or origin. Article 121 provides that "the communities of the Atlantic Coast region shall have access in their region to education in their mother tongue, at the levels to be determined in accordance with national plans and programmes". Previously, language legislation had been adopted in 1982, and in 1984 the Government had set up a Bilingual Intercultural Education Programme (PEBI).

B. Legal and institutional framework for efforts to combat racism and racial discrimination

12. Above and beyond the provisions of the Constitution concerning the rights of indigenous peoples and ethnic communities, and the provisions of various laws on autonomy for the Atlantic regions, articles 549 and 550 of the Criminal Code prohibit and punish acts committed by individuals or groups, as well as the giving of orders, likely to lead to genocide. There is no general law prohibiting racial discrimination which contains provisions to combat discriminatory acts committed by State officials or private individuals.

13. Various institutions ensure protection of human rights: in 1999, the office of Procurator for Human Rights was established. The Procurator has the power to receive complaints from persons who consider that their human rights have been violated by State officials. In particular,

he ensures respect for the rights of the indigenous peoples and ethnic communities in the Atlantic coast regions. In 2003, the Procurator received 528 complaints from individuals and groups living in the Atlántico Norte and Atlántico Sur regions. These complaints mostly related to failure by the State to respect economic, social and cultural rights (social security, the right to health, the right to food, the right to culture, the right to housing, provision of basic services and the right to education), as well as the violation of property rights.⁵

III. PRESENTATION OF THEIR SITUATION BY THE POPULATION GROUPS CONCERNED

A. Economic and social marginalization of the Atlantic coast regions

14. Generally speaking, the inhabitants of these regions consider their marginalized situation is the result of centuries-long discrimination at the hands of the central government and the dominant classes. Economic and social indicators for the region reveal large disparities compared with those for the Pacific region. These people remember that both before and since independence, the mines, plantations and fisheries in their regions have been exploited to the benefit of the Pacific regions or foreign companies, and to the detriment of their economic and social development.

15. The main demands of the inhabitants of Nicaragua's autonomous regions (Atlántico Norte and Atlántico Sur) have to do with failure to apply the laws and regulations related to autonomy and the failure of the central government to allocate the financial resources needed for the development of their regions. Consequently, they denounce what they term a "fictitious autonomy" which stems from the fact that the central administrative authorities ignore proposals made by the autonomous regions and do not involve them in the adoption of decisions which concern them. Their representatives emphasize the complete lack of any linkage between the central government's policies and the operation and management of the regional councils, and consider that the failure to allocate the resources needed for their activities is a lever used by the Government to impose its own decisions. In particular, this lack of linkage halted all activity by the regional council in the Atlántico Sur region over a period of more than eight months in 2003. The representatives also point out that regional autonomy still remains to a large extent subject to interference from the central government in the drafting and funding of economic and social development plans. They stress that they are excluded from decision-making concerning the use of their regions' resources, despite the fact that the Constitution and the autonomy law acknowledge their ownership rights over communal land and their right to benefit from resources deriving from fauna and flora.

16. The following facts illustrate the economic and social marginalization of the Atlantic coast regions:

- The human development index for the Atlántico Norte and Atlántico Sur regions is the lowest in the country, and this is reflected in the maternal mortality rate: 362 maternal deaths per 100,000 live births, compared with 110 per 100,000 countrywide; almost 70 per cent of the population is classified as poor;

- Out of 5,398 primary schools in the country, only 200 are located in the two regions, and the illiteracy rate is 40 per cent against 23 per cent for the country as a whole; despite the existence of programmes of multilingual education incorporating local languages, very little use is made of these languages and instruction in Spanish predominates;
- Health infrastructure is also inadequate, so much so that patients suffering from serious illnesses have to be transported by helicopter to hospitals in the Pacific region;
- Basic equipment and services are also largely inadequate in these regions: provision of drinking water stands at only 16.2 per cent in the Atlántico Norte Autonomous Region and 24 per cent in the Atlántico Sur Autonomous Region, against 60-70 per cent in the Pacific regions; and while the Atlántico Sur Autonomous Region possesses at least 225.3 kilometres of tarred roads, the Atlántico Norte Autonomous Region has almost no roads of this type and is inaccessible from Managua.

B. Concerns relating to protection of land rights and the implementation of a bilingual intercultural education programme

17. One of the major concerns of the population both in the North and in the South is protection of their communal land rights. Despite the adoption of law No. 445 relating to the communal property regime for the indigenous peoples and ethnic communities in the autonomous regions of Nicaragua's Atlantic coast and the rivers Bocay, Coco, Indio and Maíz, the representatives of these groups emphasized that the lack of proper demarcation of communal land jeopardizes their land rights. The Intersectoral Commission responsible for demarcation and granting of titles is unable to perform its role for lack of financial and human resources. The frequent intrusions into their land by settlers who mostly come from the Pacific regions, the allocation of land to Contras and former fighters in the Sandinist revolution and the granting of forestry or mining licences to companies without local consultation or consent constitute serious infringements of these land rights. The case of the Awastingni community was cited in this regard: on 13 March 1996, the Government granted the Korean company Solcarsa 62,000 hectares of forest to exploit, without obtaining the agreement of the Sumu-Mayagna peoples who claimed ownership, and in breach of the regional autonomy law. The population groups then appealed to the domestic courts and the Inter-American Court of Human Rights. On 31 August 2001, the Court ruled in favour of these groups, finding that the State of Nicaragua had violated the ownership rights of the people concerned, and called for the suspension of all exploitation of the area of the grant and the start of negotiations with the local people with the aim of reaching agreement on delimitation and recognition of their land titles. The land in dispute has not yet been delimited. A number of violent confrontations between settlers and indigenous people, leading to fatalities, have also taken place in the Atlántico Norte and Atlántico Sur autonomous regions.⁶

18. The representatives of the autonomous regions expressed regret that the presidential adviser on Atlantic coast affairs was not from the region, and emphasized the fact that coastal people were largely unrepresented in the central administration.

19. Above and beyond the situations described by the indigenous peoples in the Atlantic regions, the representatives of the peoples of Somoto region whom the Rapporteur also met complained to him of the violation of their land rights. The Litelpaneca indigenous people, for example, denounced the appropriation of their land with the complicity of the police and underlined that the administrative and judicial remedies they had used to recover their rights had proved ineffective. They called for the removal of the Los Ranchos and El Limón farms which had been established on their land by individuals belonging to the former Contra resistance with local connivance. These peoples considered that Nicaragua's failure to ratify ILO Convention No. 169 on indigenous and tribal peoples constituted a further obstacle to meeting their claims to land.

20. Despite the existence of the Bilingual Intercultural Education Programme, the persons consulted by the Special Rapporteur emphasized that the funds needed had not been allocated, so that the educational and human resources required for the implementation of the programme were lacking. In addition, the dominant teaching model remains instruction in Spanish. The Regional Autonomous System of Education, devised by the Atlántico Norte and Atlántico Sur regional councils in accordance with the Constitution and legislation on education, culture and languages (see paragraph 11 above), has not yet been approved by Parliament.

IV. ANALYSIS AND EVALUATION OF THE POLITICAL AND LEGAL STRATEGY AND THE INSTITUTIONAL FRAMEWORK

21. By acknowledging its ethnic diversity and granting it the protection of the law and an institutional framework, Nicaragua has taken a major step towards multiculturalism and the management of ethnic and racial pluralism. Yet the legislation and the institutions, which lack the resources they need for implementation and operation, have not succeeded in making regional autonomy a viable reality which merits recognition by the local people. It seems that the autonomy granted to the Atlantic coast regions is not always favourably viewed by Nicaragua's central authorities, some of which regard it as a burdensome legacy of Sandinist policy, sustaining the separatist aspirations of the coastal people or efforts to strengthen the English-speaking identity to the detriment of the dominant Hispanic culture. There is also the perception of Mestizo ethnocentrism on the part of the peoples of the Atlantic coast, which is said to account for the neglect of economic and social development in their region.

22. Despite the deep historical roots of racial discrimination, its pervasiveness in contemporary society and its clear daily manifestations, the Special Rapporteur considers that there is no clear recognition of this reality by the political authorities and the dominant classes. The failure to recognize the reality of racial discrimination and its pervasiveness throughout the society is therefore a major initial obstacle to efforts to confront this problem directly and objectively and find a lasting solution.

23. The Special Rapporteur was particularly struck by the lack of an intellectual and ethical strategy to combat racism and discrimination. Neither the structure nor the content of Nicaragua's system of education has been subjected to deconstruction with a view to analysing the history of racism, its origin, its mechanisms, its process, its expressions and manifestations. History, for example, which is the workshop for the discriminatory and racist construction of identities, does not appear to have been revisited, either in its written form or in the way in which it is taught. The mirror of identity, reflected by the media, ensures that indigenous people and

people of African descent remain historically invisible as part of the heritage of discrimination and racism. The system of dominant values marginalizes the traditional cultural and spiritual values and practices of these groups. The task of building genuine multiculturalism, egalitarian, interactive and democratic, therefore constitutes a major challenge for Nicaraguan society.

V. CONCLUSIONS AND RECOMMENDATIONS

24. **The Special Rapporteur, while aware of the absence of institutional racial discrimination and the progress made in multiculturalism in Nicaragua, wishes to make the following recommendations designed to maintain the momentum of the planned reforms and open up new prospects for enhanced participation by the various ethnic groups:**

(a) **Taking into account the perceptions of the population groups which consider themselves victims of discrimination, the Government should at the highest level formally recognize the existence of racial discrimination and make a commitment to combating it; this would give a strong moral and political signal to the population groups involved and the country as a whole;**

(b) **The Government of Nicaragua should make a firmer commitment to combating racial discrimination, particularly by developing in a democratic manner, with the participation of the communities concerned, a global programme of action against racism and racial discrimination and for the building of a multicultural, egalitarian, democratic and interactive society inspired by the Durban Declaration and Programme of Action. This programme, while taking account of progress towards multiculturalism, should include effective measures for the representation of the ethnic and indigenous communities within State bodies, to counter the profound consequences of racial discrimination in the areas of education, health and housing; a programme of positive discrimination to the benefit of the indigenous and Afro-Nicaraguan peoples should form the core of this global programme of action;**

(c) **Efforts to combat racism and racial discrimination should be based on an information policy targeted on the population groups suffering discrimination, as much in relation to their rights and the remedies available as on the Government's policies and programmes; in this context, the population groups should be informed of the Government's international commitments in the sphere of human rights and efforts to combat racism, through the extensive dissemination of the relevant international instruments, the final document adopted in Durban and the periodic reports submitted by the Government to the Committee on the Elimination of Racial Discrimination (CERD); in relation to the media and their impact on the shaping of perceptions, the Special Rapporteur recommends that the media should adopt a code of conduct and ensure that Nicaragua's ethnic diversity is reflected both in their programmes and in their leadership and management structures; the State and the media should vigorously encourage the establishment of local and community media;**

(d) **The specialized agencies of the United Nations should assign efforts to combat racism and racial discrimination a central place in their projects and programmes in Nicaragua and provide assistance in the drawing up of the global programme of action against discrimination; special support should be given to governmental projects which**

contribute to the development of the Atlantic regions; the fields of competence of the agencies and organizations of the United Nations system are the social vectors of discrimination and racism: work, environment, land, education, health, culture, etc.;

(e) The Government should take the necessary steps to speed up the process of demarcation of communal land and restore property rights to the affected groups, including those in Litelpaneca;

(f) The Government should initiate the process of accession to ILO Convention No. 169 on indigenous and tribal peoples with a view to better safeguarding the land rights of such peoples; the law on the communal property regime should be effectively implemented, in particular through effective demarcation of communal land, by providing the Intersectoral Commission responsible for demarcation and granting of titles with the necessary human and financial resources;

(g) The Bilingual Intercultural Education Programme should be effectively implemented, in particular as regards its educational and human resources, through the allocation of the requisite funds. In this context, the Parliament should adopt the necessary legislative measures for the proper operation of the Regional Autonomous System of Education devised by the Atlántico Norte and Atlántico Sur regional councils.

Recommendations at the regional level

25. Efforts to combat racism and racial discrimination should take into account the regional dimension in Central America, where the societies share not only demographic, ethnic and cultural similarities, but above all a historical heritage of racism and discrimination, amplified by present-day political violence. The countries of this region are also characterized by movements of population groups which are victims of discriminatory practices to various degrees in the different countries. The Special Rapporteur consequently recommends that the Organization of American States (OAS), and in particular the Inter-American Commission on Human Rights, should assign a central role in peace-building to the thoroughgoing eradication of racism and racial discrimination with a view to building democratic, egalitarian and interactive multiculturalism in the region. OAS should support the efforts of the Central American States by means of studies on the shaping of multi-ethnic identities and the manifestations of phenomena as well as assistance in the drafting of coordinated domestic and regional legislation, the strengthening of institutions for the protection of human rights and civil society, and the revision of educational and media programmes and systems.

26. OAS should also promote intercultural tourism centred on the following elements: the existence of a shared physical heritage, the vitality of authentic cultural and spiritual practices and forms of expression and their profound interactions in time and space. Intercultural tourism can make it possible to combat discrimination through the rehabilitation of identities that have historically been denied or scorned, to check the tendency inherent in modern mass tourism to treat culture as folklore, and to foster the fundamental link between land and culture, land and origins, which lies at the heart of the demands made by the indigenous communities and those of African descent.

Notes

¹ Centro de Derechos Humanos, Ciudadanos y Autonómicos (CEDEHCA) (Centre for Human, Citizens' and Autonomy Rights), "Situación de los derechos humanos y autonómicos de pueblos indígenas, pueblos des ascendencia africana y mestizos del Caribe Nicaragüense" (Status of the human and autonomy rights of indigenous peoples, people of African descent and Mestizos in the Caribbean region of Nicaragua), *Informe anual 2003 (Annual Report 2003)*.

² The Government provided the Special Rapporteur with these approximate data, but pointed out that the National Institute of Statistics and Censuses will introduce the ethnic variable into the census of the population and living conditions in 2005 so that more precise figures can be gathered. Consultations are under way on this matter with the ethnic groups and indigenous peoples concerned. The data on the autonomous regions were supplied by CEDEHCA.

³ Inaugural speech by President Enrique Bolaños, 10 January 2002.

⁴ Moravian Protestant beliefs became established along the Atlantic coast from the nineteenth century onwards, as a result of the activities of German missionaries.

⁵ Cf. *Informe anual de la Procuraduría para la defensa de los derechos humanos (Annual report of the Procurator for the Defence of Human Rights)*, Managua, 2003, p. 81.

⁶ Incursions and conflicts have been reported in the municipalities of La Cruz de Río Grande and Prinzapolca, in the areas of Rama Cay, Monkey Point and Wawashang.
