**“Guardians of Autonomy and Human Rights”: The Roles Played and Challenges Faced by NGOs and Civil Society in Promoting Autonomy in the Caribbean Autonomous Regions of Nicaragua”**

**Hortencia Socorro Woods Downs[[1]](#footnote-1)**

**INTRODUCTION**

Granting autonomy to the distinct Caribbean regions in Nicaragua – which was established by law and in the constitution in 1987 – was a proposal designed to end ethnic-based conflict, similar to the context of emergence of autonomous regions elsewhere. The Nicaraguan case is one of the few in the Americas and is considered one of the more successful (Weller and Wolf, 2005). Indeed, the autonomy regime established therein was successful at ending the conflict, and Coast people[[2]](#footnote-2) passionately defend their right to autonomy and their identity as Coast people (PNUD, 2005). However, after thirty years of implementation, what has emerged is a confined or restricted form of autonomy (González and Figueroa, 2009) largely because of political, economic and social obstacles[[3]](#footnote-3) placed by the central government that exacerbate existing unequal relations of power.

On the one hand, over the last three decades the autonomy of the North and South Caribbean Coast Autonomous Regions[[4]](#footnote-4) and the related rights of Coast people have been consolidated in various ways (González and Figueroa, 2009; PNUD, 2005). The most basic way this has happened is recognition by the central government of the multiethnic and intercultural society in the Caribbean that is different from, but fully part of Nicaragua. At the same time, indigenous and Afro-descendent communities have also accepted the autonomy framework and democratic dialogue. Another is having strengthened the framework itself through regulating the original statute[[5]](#footnote-5) and introducing laws regarding key elements of the communities’ identities. A third element is the work of civil society organizations that has contributed to the organization and development of indigenous and ethnic communities and various social sectors (women, youth, others), as well as the knowledge, exercise and analysis of autonomy rights.

On the other hand, there are also some important reasons why the implementation of autonomy has been restricted. These include: weak institutions; privatization of state enterprises and other public goods (in the early 1990s); limited implementation of Coast-specific programmes due to: lack of funding, especially to equitable investment to compensate for lower rates of access to services and development, as well as low political will of central government; historic delays in demarcating and titling communal lands; limited technical capacity of actors in various sectors; under-resourcing for regional government budgets due to both insufficient transfers from central government and limited tax collection on the Coast (partly linked to extremely informal economy). Another factor is ongoing sense of mutual distrust between Coast people and the rest of Nicaraguans. This can be partly explained by the separate history, different cultures and languages, as well as by racism of the majority of the population, ethnically defined as Mestizos, towards the indigenous and Afro-descendent communities who are mostly located in the Caribbean autonomous regions. These obstacles can be explained largely by the central state’s neoliberal interests and a general lack of commitment to responding to the specific needs of Coast people and promoting the rights, identities and worldviews of the indigenous peoples and Afro-descendent communities.

Civil society leaders from the South Caribbean Coast Autonomous Region (RACCS) interviewed for this paper emphasized that, in the face of these considerable constraints related to the central state and even the regional government structures, Coast civil society, including non-governmental organizations (NGOs), was the ‘guardian’ of autonomy and Coast people’s human rights.

**“[Civil society] should be the *guardian* of the political, economic, social and cultural processes, to ensure the fulfilment of human rights of citizens in the autonomous regions.”** [author’s emphasis]

This paper draws on Nicaragua’s almost thirty years of experience since the autonomy regime was brought into effect (1990) to show that one of the most important factors that have contributed to Coast people being able to defend their autonomy and human rights has been the use of multiple strategies by civil society organizations (CSOs). These are: implementation of programmes complementary to those of the state; monitoring rights situations and state responses; and recourse to international accountability mechanisms. The Nicaraguan normative framework does not attribute the role of guardian of autonomy and human rights to civil society. However, when state programmes, laws, and policies are not effective at guaranteeing Coast people’s rights and the programmes implemented by CSOs are insufficient or their monitoring and policy/advocacy work does not contribute to the state taking appropriate action, CSOs look to other means. Given the lack of adequate state-civil society dialogue mechanisms and regional[[6]](#footnote-6) or national level safeguards such as dispute-settling mechanisms, Coast civil society used the binding mechanism of the Inter-American Human Rights system as well as the United Nations (UN) human rights system. This has occurred with the participation of diverse actors, especially communal boards and Coast-based, national and international NGOs and has contributed to Coast civil society exercising the role of ‘guardian’ in some circumstances.

This paper refers to civil society as individuals and groups that belong neither to the public (state) nor private sectors, although they may choose to influence or collaborate with either or both, which organize to bring about change. This is a very broad definition that includes many different groups, organizations, networks and institutions that have different types of members, organizational structures, purposes, functions, mandates, types of action, and spheres of influence. Because civil society involves so many disparate actors, among them one can find commonalities, differences and even contradictions. The cleavages found in society as a whole, especially regarding unequal power structures, also exist in civil society. Furthermore, the blurred nature of the category refers not only to its members, but also to the borders among the state, private sector and civil society, especially where the state may have considerable influence on structuring civil society.[[7]](#footnote-7)

In Latin America, as elsewhere around the world, there has recently been a surge in civil society organizing. Often CSOs are championed for bringing about change, such as extending or deepening democracy, or demanding human rights. Out of the many types of CSOs, NGOs are often signalled as important leaders, especially because of their access to resources. At the same time, since the dynamics of society as a whole traverse civil society in particular, civil society groups may not have progressive or constructive aims, may exacerbate power imbalances, or may pursue the agendas of the state or private sector. For example, on the one hand, NGOs may be seen as improving the situations of marginalized populations by providing alternative services, such as health care. However, on the other hand, this can also be seen as taking over the state’s role, and allowing the neoliberal state to pursue corporate interests and those of the ‘one per cent’. Notwithstanding these valuable arguments, other positions also argue that it is important to pursue a variety of strategies in a coordinated way in order to achieve progressive social change, especially transformation that seeks to guarantee human rights and eliminate discrimination and unequal power structures. The argument and approach used in this paper are mindful of these concerns and many examples of these dynamics can be found in the text.

To demonstrate the argument, the paper begins by providing a historical context to the current autonomy regime in Nicaragua. From there, the Nicaraguan normative framework for autonomy is compared with the proposed framework contained in the Moroccan Initiative for the autonomy of the Region of Sahara, with the aim of responding to several of the guiding questions for this seminar. The following two sections analyze the implementation of the autonomy framework. The first examines how the three strategies are used to promote autonomy and human rights in their political, economic and social dimensions; and the second considers some of the main challenges faced by CSOs and NGOs in carrying out these roles. Finally, conclusions are drawn regarding the Nicaraguan experience, particularly the importance of considering how implementation must address underlying dynamics, especially unequal power structures, so that guarantees of autonomy and human rights that exist on paper can be fully enjoyed by the population of autonomous regions on a daily basis. These conclusions will hopefully be relevant beyond the Nicaraguan case and may apply to the case of Sahara.

This paper is informed in general by decades of work with civil society organizations on the Caribbean Coast of Nicaragua. It is based in particular on a review of documents related to the Nicaraguan normative framework for autonomy and its implementation as well as closed, written interviews and informal conversations held with several Coast leaders who have had decision-making roles in civil society organizations (CSOs) and NGOs of the Caribbean regions.

1. **CONTEXT: HISTORICAL OVERVIEW AND A SNAPSHOT OF THE AUTONOMOUS REGIONS TODAY**

The Caribbean coast has long had a distinct history from the Pacific and centre of Nicaragua. It is vital to understand these profound differences in all aspects to understand the enduring claims to autonomy and the specific identities of Coast people compared to the rest of Nicaragua. The first section provides a historical overview of how the main differences emerged and the second section provides quantitative figure as a background for actions taken by Coast civil society to promote their autonomy and human rights.

1. **Historical Overview**

This section provides a historical background to understanding the issues around implementation that will be raised below. These include the longstanding gamut of differences between the Caribbean coast and the rest of Nicaragua; how the Caribbean coast became part of Nicaragua; education and language issues; the underlying significance of ongoing dual modes of production, i.e. communal land tenure for subsistence co-existing with foreign exploitation and extraction of natural resources and the tensions between them; as well as the appeal to external actors to protect the rights and ways of life of Coast people against being subordinated to Pacific Nicaragua.[[8]](#footnote-8)

Prior to European colonization, there were several different indigenous populations on either side of what is now Nicaragua. Those living on the Pacific side had emigrated south as part of Mesoamerica, while those on the Caribbean side migrated north from Colombia. Although Nicaragua can be drawn into different divisions, these two ‘sides’ were separated (but not completely cut off) by a natural barrier of rainforests, savannahs and rivers. During the European colonial period, the Spanish came to the Caribbean coast of Nicaragua in 1523 but moved quickly to the centre and Pacific of the country to conquer the existing indigenous population and its territory and establish settlements. On the Caribbean side, a British trading company began establishing commercial relations with indigenous populations in 1633, and an alliance was formed between the Mosquito[[9]](#footnote-9) Kingdom and the British. British settlements only existed in the area between 1742 and 1894. In terms of religion, the Spanish sought to convert the indigenous populations to Catholicism from the time of their arrival. On the Caribbean, eventually the dominant religious presence was that of the Moravian church, which arrived in Nicaragua in 1849 and quickly established itself as the main church. It continues to have an important influence in indigenous and Afro-descendent communities through churches, schools and its charitable wing. Also on the Caribbean side, the two modes of production were communal production through hunting, fishing and gathering, which gradually shifted to include trade with the British, and sugar cane and cotton plantations set up by the British with slave labour they forcibly brought from Africa. The British also began commercial logging in the eighteenth century. The first British Protectorate, established in 1638, ended when Britain recognized Spanish sovereignty in Central America in 1786. Nonetheless, Britain maintained its economic interests and “special relationship” with the indigenous populations of the Mosquito Kingdom throughout the Mosquito Coast (a territory which covered parts of Nicaragua and Honduras) (Romero Vargas, 1996).

The tumultuous nineteenth century saw the creation of the Republic of Nicaragua and its eventual political control over the entire territory as well as growing international interest in exploiting the natural resources of the Caribbean coast. The United Provinces of Central America, including Nicaragua, achieved independence from Spain in 1821, and in 1838, each of the five provinces became a separate state. Slavery was abolished in the British Caribbean in 1841. From 1844 to 1860, the second British Protectorate was established, principally to ensure British economic interests. In 1860 Great Britain released more control, and the Mosquito Reserve was created, which was autonomous from the Nicaraguan state. This is seen as an important antecedent for the demand for autonomy in the late twentieth century. In 1894, the Nicaraguan state incorporated all the Mosquito Reserve (i.e. all the territory of the Caribbean side of the country) and the region was named Zelaya province after the then-president (Romero Vargas, 1996). The Nicaraguan government called this move “reincorporation”, a term that is still rejected by the Caribbean communities because it negates the region’s separate history and identity.

The terms of the Harrison-Altamirano Treaty in 1905 both ended British colonialism as well as laid out a vague framework for involvement in the region by Nicaragua, Coast people and the United States (US). While Nicaragua shored up its control as regards the political system, taxation and other elements, indigenous and Creole people were granted land rights and their use of communal lands and related customs and traditions were recognized by the Nicaraguan state. The Nicaraguan government made a commitment to issuing land titles to the communities but never fulfilled it. The US took control of the British mining concessions, marking the start of a century dominated by US imperialism and military intervention and struggles against it. US commercial interests were particularly strong in the Caribbean region of Nicaragua starting in the mid-nineteenth century. At that point, one main reason was the use of the San Juan River (whose southern bank marks the border with Costa Rica) as an inter-oceanic transportation route during the California gold rush. Several attempts were made to build a canal in the nineteenth and twentieth century, but none of them were successful. By the early twentieth century, US companies had concessions for mining, logging, rubber, agricultural (bananas) and other interests in eastern Nicaragua and an enclave economy was strengthened. Safeguarding these interests led to several US military interventions and occupation in the early twentieth century (Gismondi and Mouat, 2002). Augusto C. Sandino’s struggle against the US’s military occupation in the late 1920s and early 1930s included destroying two mines in the northern part of the Caribbean in 1928.

After incorporation, Coast leaders continued to reject forced integration into Nicaragua. Coast people kept their children home from school for several years so they were not obligated to learn Spanish, and they rejected high taxes imposed and other measures. Coast leaders made several overtures to the British for the region to return to being a British protectorate, and even one to the US, but these were all rejected. By contrast, policies to integrate indigenous people in the other regions of the country included creating the myth of a unitary Mestizo population (Gould, 1997). Under the Somoza family dictatorship (1936-1979), the central Nicaraguan government had little involvement in economic, political and social life in the Caribbean region. Separate from the communal economy, US concessions not only controlled the commercial economy, their contracts required them to build infrastructure (roads, schools, health centres) to and in the local communities. The Moravian church provided education in English and some health services, including in rural communities that might not have had access to public health care. During the twentieth century, as during the previous two hundred years, the people of the Caribbean coast had little contact with the Pacific side of Nicaragua, and their ties were greater with the Caribbean, England, the United States, and Europe.[[10]](#footnote-10) In the 1970s, indigenous and Afro-descendent communities began to organize in different ways in the north and south of the country. Organizations of indigenous people in the north demanded collective land rights, education in indigenous languages, and broader political and cultural rights; an indigenous and Creole organization in the south sought improved economic development, education and political participation (González and Figueroa, 2009; Gordon, 1998; Hale, 1994).

The start of the Sandinista Popular Revolution in 1979 until autonomy was granted in 1987 was a period of great upheaval for the Caribbean Coast and its inhabitants. The revolution came to power seeking to unify all Nicaraguans as part of its national liberation struggle to rid the country of not only the dictatorship, but US commercial and military interests that propped it up. It also sought to improve people’s lives especially the urban and rural poor, for example through land reform, free health care and education for all, an expanded social welfare net and even promoting popular culture. Mass organizations brought people together at work, at home, and by identity (a mass organization for women as well as one for indigenous people on the Caribbean coast called MISURASATA, for *Miskitos, Sumos, Ramas Sandinistas Unidos*). Their purpose was to get people to participate more actively in the revolution and the initial model of popular democracy that included civil society participation in the government (Williams, 1994). Despite the general unawareness of Coast history, identities and traditions by the Sandinista National Liberation Front (FSLN), they sought mutual understanding among all Nicaraguans, and the indigenous and ethnic communities initially supported FSLN social policies. Disagreements were settled amicably at first. For example, the nationwide 1980 literacy campaign was only designed in Spanish, but through MISURASATA, Coast leaders were able to convince the central government to offer literacy in indigenous languages and Creole. This process was later seen as significant for bolstering demands for autonomy at the community level.

Distrust began to build between Coast people and the FSLN leadership, partly because the FSLN was suspicious of Coast people’s enduring ethnic identification, and FSLN actions denied the land rights (among others) of indigenous and Afro-descendent communities. The US economic, political and military intervention in the country that began in the 1980s shifted FSLN strategies and priorities. MISURASATA rejected demands from the FSLN leadership to change into a class-based organization. By contrast, in 1981 it proposed to the FSLN that the party accept indigenous communal land ownership, a move that would cover about one third of the Caribbean region, and other rights (González and Figueroa, 2009). Some of the leaders of MISURASATA were jailed that same year and when they were released, they joined many Miskitus who fled *en masse* to join relatives and others in Miskitu communities on the Honduran side of the Wangki (or Coco) River (northern border of Nicaragua). Other members of Coast communities who opposed the revolution fled to Costa Rica or further afield. These leaders and others joined forces with the *Contras* (for *Contrarrevolución* or the Counterrevolution) to oppose the Sandinistas militarily. In 1982 the FSLN forcibly relocated Miskitu communities along the Wangki River – where fighting with the *Contras* was extremely heavy – towards the interior. This strengthened opposition to the Sandinista revolution, particularly among the indigenous population in the north.

Faced with the devastating effects of the US-backed *Contras*, by 1984 the FSLN decided to make an important shift in its approach to Coast people and opened a dialogue on autonomy. A long, participatory consultation process ensued in both the north and the south. Various proposals were put forward by the autonomy commissions and representatives of different communities (González and Figueroa, 2009; Hale, 2004). While the FSLN and some communities favoured a multiethnic approach, some Miskitu leaders in particular sought recognition of indigenous self-determination as a separate nation. When US backing of the *Contras* ended in 1986, the fighting gradually ended. A consensus was reached to recognize the Caribbean Coast region as an autonomous, multi-ethnic region within Nicaragua. The original law was passed in 1987 and recognized in the constitution of the same year. Miskitus and others who had fled to Honduras and Costa Rica to escape the fighting began to return. The autonomy law was pivotal to bringing peace and stability to the Caribbean region by reaching an agreement in which the Republic of Nicaragua agreed to recognize all the attributions to the autonomous regions and the rights and obligations of its inhabitants, especially the historical rights and traditions of the indigenous and Afro-descendent communities. It was the first such agreement among these two historically different, if evolving, sides. It was a significant achievement to pass the autonomy legislation, one that developed based on a participatory process and involved many actors with various perspectives, some of which were contradictory. At the same time, this culmination point was also the start of the complex process of implementation.

1. **A Snapshot of the Caribbean Coast Autonomous Regions Today**

The following data is provided in order to contextualize the situation in the North (RACCN) and South (RACCS) Autonomous Caribbean Coast Regions of Nicaragua. The narrative highlights issues that are particularly relevant for the analysis, including some data not in the chart below.

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| **Category** | **RACCN** | **RACCS** | **Nicaragua****(total)** |
| Population (2005)\* | 314,130 | 306,510 | 5,142,098 |
| Surface area (km2) (2005)\* | 33,105.98 | 27,260.02 | 120,399.54 |
| Rural population (2009) + | 72% | 63% | 44% |
| Electrification index (%) (ENEL, 2003) ~ | 22.6% | 26.5% | 54.8% |
| Access to urban sewage system (%) (ENACAL, 2003) ~ | 0.0% | 0.0% | 34.6% |
| Potable water coverage (%) (ENACAL, 2003) ~ | 25.2% | 29.4% | 73.2% |
| Life expectancy at birth – women (2009) + | 68.2 years | 72.9 years |
| Life expectancy at birth – men (2009) + | 63.6 years | 68.1 years |
| Maternal mortality (per 100,000 registered live births, 2003) ~ | 293 | 144 | 83 |
| Femicides (Women’s Network against Violence, 2010) + | 11 | 7 | 89 |

Sources:

\* INIDE, 2005.

+ Voces Caribeñas, 2014.

~ PNUD, 2005.



According to the most recent national census (2005), the RACCN and RAACS together make up half (50.2%) of the territory of Nicaragua, but contain only 12.1% of the population. Not only is there a very low population density (10.4% combined for both regions) the population is also considerably more rural than the rest of the country, whose majority is urban.

Another key factor regarding these regions is their multi-ethnic character. According to a 2009 survey, the population of the RACCN was made up of 57% Mestizos (the vast majority of the country’s population), 36% Miskitus, 1.2% Creole and 6% Mayagna. In the RACCS, the population is distributed as follows: 90% Mestizos, 3% Miskitus, 6% Creole, 0.1% Mayagna, 0.3% Rama, and 0.8% Garifuna. These statistics have changed rapidly over the past twenty years, as more and more peasant farmers from other parts of Nicaragua move to the Caribbean regions to settle. It is also relevant to note that these statistics are based on people’s self-identification, in accordance with the autonomy law.

The statistics provided above for electrification, potable water coverage, and access to urban sewage systems is provided to indicate the very low level of basic services available to the population of the two autonomous regions in comparison with the rest of the country. They indicate some aspects of the level of poverty, as well as the central government’s commitment to ensuring that all citizens enjoy the same basic rights. Life expectancy at birth is a general health indicator that also contributes to show the life conditions of inhabitants of the autonomous regions in comparison with the rest of the country. The other statistics contribute some of the social determinants to explain this figure.

The figures for maternal mortality and femicide, which is defined as the killing of a woman for gender reasons, indicate that even though all Nicaraguan women suffer considerable inequality in comparison to men, Coast women suffer much greater levels of inequality. The dire situation for pregnant women in the Caribbean regions is due in part to the isolated locations where they live, as well as access to health care from highly qualified caregivers providing services in the women’s own language and using her cultural traditions. Femicides of Coast women make up 20.2% of the national total, almost double the proportion of the population. This data provides background to the discussion on civil society’s actions regarding women’s rights, and it also serves to indicate that multiple underlying structures of power must be adequately addressed by autonomy provisions. The normative framework for autonomy must provide for a policy environment that ensures that women have access to equal, equitable and differentiated responses (health care, violence prevention and access to justice, etc.) so they can fully exercise their human rights.

The Caribbean Coast is home to many of Nicaragua’s natural resources, yet these riches are not usually calculated in ways that take into consideration both subsistence economic activity by indigenous populations and ethnic communities as well as the standard liberal economic production model. The autonomous regions contribute 42.3% to the gross national product (GNP) from the fishing sector, 30.9% from forestry, and 21.3% from livestock. Nevertheless, the total economic contribution of the autonomous regions to the country’s gross national product (GNP) was 6.1%. However, if communal economic production were considered, that figure would rise to 15% (PNUD, 2005).

These figures contribute to demonstrating two points. One is that the population of the Caribbean Coast autonomous regions lives in very different social and natural surroundings from the rest of Nicaraguans. At the same time, they have not enjoyed the same access to basic services as other Nicaraguans, and thus have been denied exercise of some of their basic rights.

1. **The Normative Framework of Human Rights and Civil Society: A Comparison of the Nicaraguan Autonomy Framework and the Moroccan Initiative**

This section compares the provisions of the existing Nicaraguan legal framework with the Moroccan Initiative regarding the protection, promotion, defence and guarantee of human rights and the role of NGOs. The Nicaraguan legal framework for autonomy comprises principally of the Constitution of 1987 and subsequent reforms, the autonomy law (no. 28) of 1987, and the regulatory legislation of the autonomy law (National Assembly Decree 3584) of 2003. This section will compare the provisions of these texts with that of the Moroccan Initiative[[11]](#footnote-11) regarding: human rights provisions; the role of NGOs in the autonomous regions, particularly regarding human rights; and specific rights relevant to the implementation of the Nicaraguan autonomy statute that will be addressed in the following sections. What stands out is that in the Nicaraguan legislation, relatively little is said about these topics. Please note that the content of the tables consists only of direct quotations from the key texts mentioned above, except for comments in square brackets. Commentary on those provisions can be found in the body of the text.

**Rights of Inhabitants of Autonomous Regions**

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| Rights of Inhabitants of Autonomous Regions Equal to Rights of All Inhabitants of the Country |
| **Nicaragua** | **Morocco** |
| **Constitution**:[The preamble reaffirms the country’s attachment to human rights and articles 23 to 91 define the entire set of rights and freedoms guaranteed to Nicaraguans, organized in these categories: individual, political, social, family, and rights of communities of the Atlantic Coast.]**Law 28**, Article 2*[[12]](#footnote-12)*: The Communities of the Atlantic Coast are an indissoluble part of the indivisible State of Nicaragua, and their inhabitants enjoy all the Rights and Responsibilities which correspond to them as Nicaraguans, in accordance with the Constitution. | **Constitution**: [The preamble reaffirms the country’s attachment to human rights and the constitution contains 23 articles guaranteeing an entire set of rights and freedoms to the Moroccans, including the population of the Sahara region.]**Morocco’s autonomy proposal**, Article 5:Thus, the Sahara populations […] will take an active part in the nation's economic, social and cultural life.**Morocco’s autonomy proposal**, Article 25:The Region’s populations shall enjoy all the guarantees afforded by the Moroccan Constitution in the area of human rights as they are universally recognized.  |

The autonomy framework of both countries specifically refers to the Constitution for the purpose of indicating that that the inhabitants of the autonomous regions have the same and complete set of rights of those in the rest of the country.

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| **Specific Rights of the Peoples of the Autonomous Regions** |
| **Nicaragua** | **Morocco** |
| **Law 28,** Article 11:The inhabitants of the Communities of the Atlantic Coast have the following rights: 1. Absolute equality of rights and responsibilities, regardless of the size of their population and level of development.
2. To preserve and develop their language, religions, and cultures.
3. To use, enjoy, and benefit from the communal waters, forests, and lands, within the plans for national development.
4. To freely develop their social and productive organizations, in accordance with their own values.
5. Education in their mother tongue and in Spanish, by means of programs which include their historical heritage, their value system, and the traditions and characteristics of their environment, all in accordance with the national education system.
6. Communal, collective, or individual forms of property, and the transfer of said property.
7. To elect their own authorities, or be elected as such in the Autonomous Regions.
8. To scientifically safeguard and preserve the knowledge of natural medicine accumulated throughout their history, in coordination with the national health system.

**Law 28,** Article 12**:** The members of the Communities of the Atlantic Coast have the right to define and decide upon their own ethnic identity.  | **Morocco’s autonomy proposal**, Article 4:Through this initiative, the Kingdom of Morocco guarantees to all Sahrawis, inside as well as outside the territory, their positions and roles in the bodies and institutions of the region, without discrimination or exclusion.**Morocco’s autonomy proposal**, Article 5:Thus, the Sahara populations will themselves run their affairs democratically, through legislative, executive and judicial bodies enjoying exclusive powers. They will have the financial resources needed for the region’s development in all fields, and will take an active part in the nation’s economic, social and cultural life. **Morocco’s autonomy proposal**, Article 18:The populations of the Sahara Autonomous Region shall be represented in Parliament and in the other national institutions. They shall take part in all national elections. . |

In the Nicaraguan framework, one can identify two broad categories of rights holders, although the normative framework does not make this distinction explicitly and directly. One category refers to all the inhabitants of the two autonomous regions. For example, the general rights of all Nicaraguans are also applicable to all Coast people (see article 2, above). The other category of rights holders are those people who belong to the “communities of the Atlantic Coast” as expressed in article 11. These rights are the same for the two specific groups of communities identified in the law, “indigenous peoples” (i.e., Miskitu, Mayagna and Rama) and “ethnic communities” (i.e. the Afro-descendent populations, referring implicitly to the Creole and the Garifuna). These specific rights cover all three generations of rights, i.e. civil and political (first generation); social, economic, and cultural (second generation); and collective rights (third generation). The autonomy statute is noteworthy in that it recognizes the right to choose their ethnic (but not other forms of) identity.

By contrast, the Moroccan Initiative does not specify the specific rights of the Sahrawi people and the inhabitants of the Saharan autonomous region. Article 12 of the Initiative outlines the jurisdiction of the Sahara autonomous region, but this is not the same. One specific right that is mentioned (but not necessarily the only one) is the political right to representation. Indeed, in keeping with democratic principles and procedures, and acting through legislative, executive and judicial bodies, the populations of the Sahara autonomous Region shall exercise powers, within the Region's territorial boundaries, mainly over the following:

* The Region's local administration, local police force and jurisdictions;
* In the economic sector: economic development, regional planning, promotion of investment, trade, industry, tourism and agriculture;
* The Region's budget and taxation;
* Infrastructure: water, hydraulic facilities, electricity, public works and   transportation;
* In the social sector: housing, education, health, employment, sports, social welfare and social security;
* Cultural affairs, including promotion of the Saharan Hassani cultural heritage;
* The environment.

Interviews with civil society leaders in Nicaragua revealed a consensus regarding definitions of autonomy and human rights. Autonomy rights often refer to the collective rights of indigenous and Afro-descendent peoples in the autonomous regions, while human rights are frequently used in reference to indigenous and Afro-descendent communities and groups, as well as groups of people who are more vulnerable to violations of their rights, such as women, children, youth, people living with HIV/AIDS, people with disabilities and the elderly.

As regards the kinds of rights recognized in the Nicaraguan normative framework, significant emphasis is placed on collective rights. It is crucial to understand that these collective rights refer to not only the topics generally assigned to this category, such as land rights, but also civil and political rights in terms of territorial government as well as economic, social and cultural rights. Indeed, according to the worldview generally held of indigenous groups in the Americas, the connection to the land is a fundamental part of one’s individual and collective identity, and activities such as hunting, fishing and gathering are not for income generation but are a part of a subsistence co-existence in harmony with the environment (Riverstone, 2003; Woods and Morris, 2007). Thus, the rights of communities includes language, culture, and religion; different forms of property tenure; traditional forms or organization; use of water, land, forests and other “natural resources”; bilingual education (one’s mother tongue and Spanish) that teaches specific cultural values; and health, with recognition of traditional medicine.

It should be noted that the few laws that have been passed in the national assembly that relate to the Caribbean coast deal specifically with these rights. They are: the communal property law (law 445 of 2003), the law of traditional ancestral medicine (law 759 of 2001) and the languages law of the Atlantic Coast (law passed in 1993 but not made official until 1996).

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| **Women’s Rights** |
| **Nicaragua** | **Morocco** |
| **Law 28, Article 23:**   The attributes of the Regional Council shall be: […]14. To promote the integration, development, and participation of women in all aspects of the political, social, cultural, and economic life of the region.**Decree 3584, Article 28:**Title VI: Regional AdministrationChapter 1: Regional Autonomous CouncilArt. 28: Each Regional Council has the following corresponding attributions: […]i. Create in each Autonomous Regional Council a body that will ensure: i.1. Effective and systematic participation of regional, municipal and communal women’s organizations in the process of defining policies, and in designing, implementing and evaluating plans and projects carried out in the Autonomous Regions. i.2. Promote women’s equal participation in decision-making positions in the various bodies of the Autonomous Regional Government and other regional administration organs.i.3. Promote women’s equal participation in decision-making positions in the various bodies of the Autonomous Regional Council and Government.i.4. Establish mechanisms that ensure a system of publicizing, education, monitoring and follow-up of the implementation in the Autonomous Regions of laws passed to benefit women, youth, children and family on the national level. | **Morocco’s autonomy proposal**, Article 19:[…] There shall be adequate representation of women in the Parliament of the Sahara autonomous Region.  |

As part of identifying who are rights bearers, both normative frameworks specify women, which is coherent with international human rights instruments that recognize that women and girls suffer specific gender-based barriers to fully exercising their rights and the need to eliminate these forms of discrimination. The Moroccan Initiative recognizes the “adequate representation” of women in the autonomous region’s legislature, although there is no definition provided of “adequate”. By comparison, the Nicaragua Autonomy Law states that the autonomous government is also responsible for women’s full participation in all sectors, political, economic, social and cultural. This responsibility is further defined in the regulatory legislation of the Nicaraguan autonomy statute, which includes the establishment of a specialized body to ensure that women are fully engaged. The four forms of participation recognized are: participation in policy and advocacy activities regarding programmes, policies and projects; equal participation in the leadership of the regional autonomous governments and the regional councils, as well as informing the population about laws, programmes etc. from the central government and monitoring their implementation.

**Civil Society and State/Civil Society Relations**

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| **NGOs, Civil Society and Freedom of Association** |
| **Nicaragua** | **Morocco** |
| **Constitution**, Article 5:Liberty, justice, respect for the dignity of the human person, political, social and ethnic pluralism, the recognition of different forms of property, free international cooperation and respect for the free self-determination of peoples are principles of the Nicaraguan nation.[…]The State recognizes the existence of indigenous peoples who enjoy the rights, duties and guarantees designated in the Constitution, and especially those to maintain and develop their identity and culture, to have their own forms of social organization and administer their local affairs, as well as to preserve the communal forms of land property and their exploitation, use, and enjoyment, all in accordance with the law.For the communities of the Atlantic Coast, an autonomous regime is established in the present Constitution.**Constitution,** Article 89:The communities of the Atlantic Coast have the right to preserve and develop their cultural identities within the national unity, to provide themselves with their own forms of social organization, and to administer their local affairs according to their traditions.**Constitution**, Article 180:The communities of the Atlantic Coast have the right to live and develop themselves under the forms of social organization that correspond to their historic and cultural traditions.**Law 28**, Article 11:The inhabitants of the Communities of the Atlantic Coast have the following rights: […]1. To freely develop their social and productive organizations, in accordance with their own values.
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The autonomy framework only mentions culturally specific forms of organization. There is no discussion of civil society in general, NGOs, or the relationship between culturally specific organizations and the larger civil society. What stands out is that this is a collective right, and that said specific forms of organization are linked to exercising the other autonomy and collective rights recognized. By contrast, in the Moroccan Initiative there is no language about civil society organizing *per se*.

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| **State-Civil Society Coordination Mechanisms** |
| **Nicaragua** | **Morocco** |
| **Law 28,** Article5:For the effective exercise of the attributions of the Autonomous Regions, the following is established: […]a) Design and implement a strategic plan for integral regional development taking into consideration civil society, bilateral and multilateral cooperation agencies, governmental organizations, non-governmental organizations, municipal and communal authorities of the Atlantic Coast to harmonize them with national plans and programmes. The Ethnic Issues and Indigenous Communities Commission will present a semi-annual report to the plenary of the Assembly on the progress achieved in designing or implementation the Regional Development Plan. | **Morocco’s autonomy proposal**, Article 26: An Economic and Social Council shall be set up in the Sahara Autonomous Region. It shall comprise representatives from economic, social, professional and community groups, as well as highly qualified figures.  |

In the Nicaragua autonomy framework there is only one reference to consulting with civil society regarding the Regional Development Plan. Other than that, there is no discussion of permanent state-civil society coordination or dialogue mechanisms. For its part, the Moroccan Initiative does create a specific council with representation from various different sectors of civil society. That said, the provisions do not detail what kind of decision-making role this council will have and in particular, how civil society actors will participate in decision-making.

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| **Safeguards: Dispute-Settling and Accountability Mechanisms** |
| **Nicaragua** | **Morocco** |
| [Arbitration only in the case of differences regarding the jurisdiction of different levels of government.]  | **Morocco’s autonomy proposal**, Article 22: Courts may be set up by the regional Parliament to give rulings on disputes arising from enforcement of norms enacted by the competent bodies of the Sahara Autonomous Region. These courts shall give their rulings with complete independence, in the name of the King. Article 23:. As the highest jurisdiction of the Sahara Autonomous Region, the high regional court shall give final decisions regarding the interpretation of the Region’s legislation, without prejudice to the powers of the Kingdom’s Supreme Court or Constitutional Council. |
| [No external accountability mechanism mentioned in the autonomy framework.] | [No external accountability mechanism mentioned in Morocco’s autonomy proposal.] |

In the Nicaraguan autonomy framework, arbitration is only mentioned with reference to defining jurisdiction among the different levels of government. That said, in practice, communities of the Caribbean coast have filed constitutional challenges with the Supreme Court of Justice. The Moroccan Initiative does provide a formal, institutionalized process: it designates two levels of mechanisms to decide on differences of interpretation regarding the autonomy statute.

Neither country’s framework provides for an external accountability mechanism. The jurisdiction of these mechanisms is contained in separate agreements of the international organization and/or in specific human rights instruments.

This comparison of Nicaragua’s existing normative framework on autonomy and the proposed Moroccan Initiative points to strengths and weaknesses of both on the basis of certain inclusions and exclusions. While the Nicaraguan framework provides considerable details regarding human and autonomy rights, the Moroccan Initiative provides specific text regarding state-civil society coordination mechanisms as well as dispute-settling mechanisms. It is vital that the normative framework for autonomy contain the best provisions to ensure the population’s human rights. Indeed, Coast CSOs have recently been working to have the Nicaraguan laws updated and improved. Yet even the best normative framework on paper cannot guarantee its own implementation. The next section will turn to see how Coast civil society has sought to implement the autonomy statutes to guarantee the population’s human rights.

1. **IMPLEMENTATION OF THE NORMATIVE FRAMEWORK: AN ANALYSIS OF THREE ROLES USED BY CIVIL SOCIETY TO PROMOTE AUTONOMY AND HUMAN RIGHTS AND THE CHALLENGES THEY FACE**

As stated in the Introduction, the Nicaragua autonomy framework has thus far been implemented in a restricted or confined way. Many sources paint a highly contrasting picture, where the state – whether central or regional governments – is seen as creating barriers to autonomy while Coast civil society is the main champion of autonomy (Hooker Coe, 2006; PNUD, 2005). Despite the warnings in the literature regarding making such dichotomous analyses, this section will demonstrate how this view has some validity, and how civil society has contributed in different, and even contrasting, ways to promoting autonomy. At the same time, it also considers the challenges civil society organizations also deal with, some of which are linked to those facing state institutions.

Several sources link the reasons why the state has not gone further to implement autonomy to either the normative framework itself and/or its implementation, particularly by the central government (Gonzalez and Figueroa, 2009; Hooker Coe, 2006; PNUD, 2005). Some of these reasons have to do with limitations in the normative framework itself, especially problems of jurisdiction among different levels of government such that there are sometimes gaps and overlaps between the different state actors, which create tensions. Other problems have to do with neoliberal interests on the part of the state and private sector (working in coordination with the state) to control access to the abundant resources on the Caribbean, as well as the land itself for the building of an inter-oceanic canal.

Another set of problems regarding the relation between the central government and the Caribbean autonomous regions in particular relates to a high degree of distrust, whether out of racism and/or to avoid dissent from unruly outsiders. Some examples of these issues have to do with the interrelationship among the central and regional governments. These are: the creation of intermediary levels of representation of the central government to further confuse the problem of jurisdiction; continued under-resourcing of the institutions of the regional governments; the influence of Pacific political parties on the regional government; and disputes over territorial sovereignty and the “rational use of resources” as defined in the constitution. These problems also have an impact on government programmes, which involve the lack of funds to adequately implement socio-economic programmes in the Caribbean given the increased costs as well as a significantly lower level of human development; as well as the very limited programmes designed to address the specificities of the autonomous regions. Finally, another set of problems has to do with issues of transparency and corruption, both with the central and the regional governments, and the ongoing disputes within the regional governments that often bring them to a standstill.

This very negative analysis of the central and regional governments is shared by analysts (González and Figueroa, 2009; PNUD, 2005) and civil society leaders (Hooker Coe, 2006), as well as by the general public. In a survey, the Coast population identified some of the same issues raised by analysts and civil society leaders as the “main problem with autonomy” (PNUD, 2005).

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| **“Main problem with autonomy”** | **% of Coast population in agreement** |
| “Elected Coast authorities have not functioned well so far” | 69.9% |
| “National political parties have too much influence on the Caribbean autonomy process” | 69.4% |
| “The Managua government doesn’t want to support the autonomy process” | 66.0% |

Source: CASC/ICADE, 2005 cited in PNUD, 2005: 232.

In the face of this negative view of central and autonomous governments, the population coincides with civil society leaders that civil society, including diverse Coast organizations, needs to play an active role in influencing the regional government and ensuring that it carries out its duty to guarantee and implement autonomy measures (PNUD, 2005). Civil society leaders who participated in another study almost a decade ago coincided with those consulted for this paper. “The NGO Committees and members of Organized Civil Society of both autonomous regions consider that the role of civil society should be one of advocacy, oversight and monitoring of state and private sector institutions to ensure that they carry out their functions, guarantee the population’s rights, and efficiently provide services to stimulate regional development” (Hooker Coe, 2006).

The stronger language used by some of those interviewed in the present – especially in terms of assigning the role of “guardian” to civil society – may well be a reflection of increased frustration at the ongoing barriers to implementation of the autonomy provisions almost ten years later.

Recent interviews with Coast civil society leaders and the literature point to three main roles used by civil society to implement its role as guardian of autonomy and human rights. These are: **complementary programme implementation**; **monitoring and policy proposals**; and **recourse to international accountability mechanisms**. Complementary programme implementation refers to implementing programmes that might be seen as the purview of the state (e.g. education). Monitoring and policy proposals are a very different role. Here civil society may operate either outside the state or in some kind of coordination arrangement with it to either monitor state actions or make proposals for improvement (e.g. alternative budgets, bills). This may also involve advocacy at the international level. The third form of civil society action, recourse to international accountability mechanisms, is used when monitoring and policy proposals do not bring about a significant change in state actions and the state (and possibly others) continues to violate human rights. This specifically refers to using the mechanisms provided for in human rights conventions and their institutional frameworks to enforce state compliance with its obligations. The two most relevant examples are the various UN human rights mechanisms and the Inter-American Commission and Court of Human Rights.[[13]](#footnote-13)

The first sub-section will analyze how Coast civil society has implemented these roles in three spheres, political, economic, and social. The next sub-section will examine related challenges in these same dimensions. These examples are taken from various moments, covering the period from when the autonomy law came into effect in 1990 until the present.

1. **Roles Used by Civil Society to Promote Autonomy and Human Rights**
2. ***In the Political Sphere***

Complementary Programme Implementation

This mostly involves providing services or programmes to communities or other population groups where the central or regional government does not. The reasons for the state’s absence identified in the interviews with civil society leaders include one or more of the following: isolated geographic location of the community and related elevated costs; government programmes are inadequate; political orientation of a CSO and/or its members; government programme or agency does not work with certain vulnerable sectors (women, children, adolescents, people with disabilities, elderly; or the approach is partial or inadequate. An example of different approaches would be the government providing sexual health services and (some) civil society organizations raising awareness on sexual rights. Some international NGOs provide health care services in remote or rural areas where there is limited or no state presence. Another aspect of the role of civil society that is essential for autonomy is to inform people about their rights related to being inhabitants of an autonomous regime and their human rights. This could also include contributing to building their consciousness and appropriation as rights-holders and their capacity to exercise those rights. Many organizations and networks carry out awareness raising campaigns on different rights to commemorate internationally recognized dates (e.g. human rights day) or autonomy day (October 30).

The topics around which civil society is organized in the political sphere can generally be placed into one of two categories. One is the collective rights of indigenous and Afro-descendent peoples. These include land, language, education, and others. The other category has to do with groups vulnerable to discrimination, or who experience considerable obstacles to exercising their individual or collective rights. These groups include women, gender identity and sexual orientation, people living with HIV/AIDS, sex workers, indigenous peoples, and Afro-descendent peoples.

Monitoring and policy proposals

These actions involve monitoring national, regional and local elections in the autonomous regions; holding forums in the region (with and/or without the presence of state actors), at a central level or at international gatherings; and writing reports to national, regional or international human rights organizations and/or mechanisms based on independent research, including participation action research with the communities involved. This monitoring role may also be carried out through participation of CSOs in inter-sectoral mechanisms at the national or regional level.

Civil society has played a key role in proposing and successfully advocating for different reforms to the normative framework of autonomy and achieving citizen participation in policy mechanisms and consultation processes in order to defend human rights. These include citizen participation in the Regional Planning Councils (PNUD, 2005) and Municipal Development Committees in most of the municipalities in the two autonomous regions (Hooker Coe, 2006) in the previous decade. Civil society also lobbied the Inter-American Development Bank and the World Bank to ensure that civil society was consulted either prior to providing a loan or as part of the board of directors. In fact, the regulatory law of the autonomy statute, which took sixteen years to pass,[[14]](#footnote-14) was an advocacy achievement by civil society, as was getting some of the language of the regulatory law to reflect their perspective. Thus, the autonomy regime has seen a significant improvement in civil society participation, but this has been the result of civil society’s own mobilization to achieve it.

One fundamental issue in this sphere that is still on the agenda has to do with indigenous and Afro-descendent representation in regional government. The autonomy statute and its regulatory law do not contain adequate provisions for equitable representation of indigenous and Afro-descendent communities. This is attributed to the fact that at the time of the original law, Mestizos did not represent as high a percentage of the Coast population as they do now. One Coast human rights organization, the Centre for Human, Autonomy and Citizenship Rights (CEDEHCA) has developed a proposal based on extensive consultation (PNUD, 2005), but so far this issue has not been addressed by the regional or central governments.

International Accountability Mechanisms

A third approach used by civil society, especially when the state fails to meet its duty to guarantee and protect human rights, and where the other two strategies are insufficient or inappropriate, is to invoke international accountability mechanisms linked to United Nations or Inter-American human rights instruments. In these cases, the communities often team up with other CSOs, such as NGOs focused on indigenous and Afro-descendent land rights and/or national and international NGOs and networks. In these situations and others, national and international NGOs often provide technical expertise and funding to accompany the communities in implementing these actions.

Likely the most consequential example of this form of action is the case of the Mayagna community of Awas Tingni, located in the RACCS, against the state of Nicaragua at the Inter-American Court of Human Rights (IACHR). After the government’s persistent refusal to recognize its communal land rights, the communal government was accompanied by national and international legal and human rights organizations (the International Human Rights Law Group, IHRLG and the Center for International Environmental Law, CIEL) to present its claim to the Inter-American Human Rights Commission. That Commission decided to present the case to the Inter-American Court of Human Rights. The Court’s 2001 decision included obliging the Nicaraguan state to demarcate the communal lands of indigenous and Afro-descendent communities within one and a half year following the decision. This led to the adoption of the Demarcation Law in 2002. Since the state did not immediately move to implement the law, the Awas Tingni community continued to put pressure on the central government through international mechanisms, including the UN Human Rights Committee as part of the Universal Periodical Review (University of Arizona Indigenous Peoples Law and Policy Program, 2008). It was not until 2009 that the Awas Tingni case was settled. Today, the Afro-descendent communities of Bluefields and Pearl Lagoon are still waiting for demarcation, a situation that has motivated critiques of racism. The Awas Tingni case may have significance far beyond Nicaragua as this was the first time international law had assigned the state full responsibility to ensure that national laws and programmes uphold the collective property rights of indigenous peoples (Davis, 2002).

1. ***In the Economic Sphere***

The economic dimensions related to the implementation of autonomy provisions cover several issues that involve deep-seated clashes between the central government’s perspective and that of indigenous and Afro-descendent peoples and CSOs in the Caribbean autonomous regions. One of these relates to the fundamental contradiction between a neoliberal economic approach of exploiting natural resources and an indigenous worldview of living in harmony with Mother Earth. This barrier to implementing the autonomy provisions relates to guaranteeing indigenous and Afro-descendent peoples’ right to make decisions over their collective land. This cornerstone of the autonomy provisions is constantly under threat in various ways by different actors, which include the central (and regional) government, international extractive industries and other firms that exploit the natural resources on public, protected and communal lands, financial and capital interests connected to mega projects (hydroelectric dams, inter-oceanic canal) and “*colonos*”.[[15]](#footnote-15) Because of these ongoing struggles, sustainable and equitable human development remains elusive.

Complementary programme implementation

Civil society organizations work in diverse ways to strengthen and promote autonomy and human rights through local decision-making and promoting local development. In the communities, the *síndigo*, a traditional indigenous authority who sits on the board of directors of the communal government, makes decisions regarding land allocations in the territory. Another example would be the two universities on the Caribbean coast, the University of the Autonomous Regions of the Caribbean Coast of Nicaragua (URACCAN) and Bluefields Indian and Caribbean University (BICU), that contribute to building the indigenous knowledge base to ensure the development and use of resources occurs in ways that strengthen and promote autonomy, as well as promoting local development through community outreach programmes. NGOs work in a variety of ways, including bringing small-scale sustainable development projects to urban and rural communities with a view to decreasing poverty and contributing to social justice. Leaders interviewed also noted that all of the work carried out by NGOs and other organizations in the autonomous regions contributes in a small way to local development (given the high unemployment rate) by providing directly some jobs and contributing indirectly to creating/maintaining jobs through their activities.

Monitoring and policy proposals

NGOs have an important role to play as regards monitoring the government and other economic actors. In fulfilling this role, civil society organizations sometimes join together, and/or they may link with national and/or international actors. One such area might be civil society monitoring of budget allocations and spending to ensure that government budgets – both allocated and spent – are adequate, appropriate and transparent. Regional civil society groups have accused political elites and others many times of corruption, but they have had lacked power and authority to prevent, regulate or have effective oversight of government spending or the administration of justice. One such example would be a highway that was to be built from the national capital to Bluefields, where no road had ever existed. Instead, the highway was diverted to the then-president’s farm in another area of the region. Other examples would be the illegal logging of forests, including in protected areas, and the private sale of communal lands without the knowledge of the community. Hooker Coe (2006) mentions that there were once “analyses” done that argued that civil society organizations should shift their programming to cover un-resourced programmes in the Regional (i.e. government) Development Plans. This may have been a response to civil society’s monitoring.

One example of policy proposals could be one Coast NGO’s contribution to the fifth stage of the land demarcation and titling process according to law 445, which is land redistribution. After analyzing the problems with the existing mechanism, the Centre for Legal Assistance to Indigenous Peoples (CALPI) proposed an alternative mechanism that was designed in consultation with several indigenous communities (Acosta, n.d.).

International accountability mechanisms

International accountability mechanisms have been invoked more than once by Coast civil society groups to stop economic development projects and concessions approved by the central government that have violated many aspects of the autonomy framework, particularly indigenous and Afro-descendent communities’ collective land rights. The Awas Tingni case mentioned in the previous section emerged because the central government had awarded a forestry contract to a foreign logging firm on the ancestral lands of the Mayagna community of Awas Tingni. The government used various mechanisms to ignore the community’s rights and impede the community from exercising them. These included trying to create divisions with other indigenous communities in the area and waiting a long time to demarcate the land until many more *colonos* had settled on the land (University of Arizona Indigenous Peoples Law and Policy Program, 2008).

Civil society groups have intervened in attempts to build an inter-oceanic canal that have not been carried out in accordance with the autonomy framework, thereby violating collective, civil and political rights and potentially violating social, economic and cultural rights as well, were the canal construction projects to go ahead. One example was a “dry canal” project that was stopped after a decision of the IACHR in 2001. Another case is currently before the IACHR. In December 2014 Coast civil society leaders together with national and international NGOs sought protection measures from the IACHR to halt the project from proceeding and get the central government to negotiate with the territorial governments. In March 2015 the IACHR heard the arguments of both the government and complainants. Coast civil society groups argue that 52% of the proposed canal route runs through indigenous and Afro-descendent communal land; however, there has not yet been any consultation with communal governments. The petitioners claim that the actions of the central government violate several provisions of the autonomy law (Servindi, 2014).

1. ***In the Social Sphere***

The social dimensions of guaranteeing autonomy and human rights in the Caribbean autonomous regions cover a wide range of sectors and issues. This section will consider examples from the fields of health, education, and violence against women and girls. In these sectors, one central concern is how to bridge a human rights-based approach with traditional understandings and mechanisms. Another key factor relates to the effective adaptation of national programmes and policies of the central government to incorporate autonomy rights for their delivery in the autonomous regions, especially regarding the fundamental rights of inter-culturalism and bilingualism.

Education

Despite the 1993 Languages Law that guarantees bilingual education with content regarding cultural values, the central and regional governments had done relatively little, either in terms of programmes or budgeting, to guarantee bilingual education for all Caribbean Coast residents. Several organizations, NGOs and educational institutions focus on providing bilingual, intercultural, and quality education as a means of exercising fundamental human rights regarding identity. One NGO, the Foundation for the Autonomy and Development of the Nicaraguan Atlantic Coast (FADCANIC), has a programme of model schools that provides an example for other schools in the area (FADCANIC, n.d.). URACCAN and other organizations have “cultural rescue” programmes designed to preserve languages and cultural traditions that may have been on the decline, as well as spread the use and awareness of them. Other programmes have the objective of improving the professional qualifications of Coast teachers.

Monitoring and advocacy around programme and policy analysis and design include contributing to the very language law of 1993 as well as subsequent policies. The most important example of a policy proposal would be the advocacy work of Youth Establishing New Horizons (JENH) of CEDEHCA, which carried out a consultation with youth in both autonomous regions and proposed policy reform for the Autonomous Region Education system (SEAR). This process contributed both to the citizenship building process, as well as designing an education system that is appropriate for the regions (PNUD, 2005).

Health Sector

Complementary programmes often seek to reach communities that are underserviced or are discriminated against, such as programmes that work with people living with HIV/AIDS or with LGBTI people. International NGOs are especially involved in this field (Hooker Coe, 2006). Another kind of complementary programme intervention is provision of alternative services using a rights-based approach. This is designed to combat the lack of information and the strength of myths and taboos on the topic, as part of other measures to prevent transmission of infections and support marginalized communities.

Another important approach taken is the promotion of indigenous knowledge and practices in the health field. One such example would be traditional medicine. In addition to research and holding public forums to raise awareness, URACCAN offers clinics in the major urban centres. URACCAN’s work in this field also contributed to passing the law on traditional ancestral medicine.

Two Coast NGOs, the Centre for Justice and Human Rights of the Atlantic Coast of Nicaragua (CEDJUDHCAN) and the Association of Indigenous Women of the Atlantic Coast (AMICA), and an international NGO, the Centre for Justice and International Law (CEJIL), took recourse to international accountability mechanisms last year regarding the abysmal situation of indigenous women. They appeared before the Inter-American Commission on Human Rights to speak about the problems facing indigenous women, for example in regards to receiving adequate obstetric care in their native language and in their own communities.[[16]](#footnote-16)

Violence against Women

Women’s organizing to demand their rights has changed dramatically since autonomy was installed. For about the first decade, women’s organizations were focused on including women in existing processes, be they the peace commissions in the RAAN or the Creole women’s group, the Afro-Caribbean Women’s Association (AFCAWA) that linked the women’s gender and ethnic interests to a resilient autonomy in the RAAS. The continued importance of ensuring that women participate fully in peace settlements, including at the negotiating table, and that women’s specific needs are met in peace agreements around the world, is codified in UN Security Council Resolution 1325 (2000).

From the 1990s to today, women in the autonomous regions have been paying ever more attention to the causes of women’s limited involvement in autonomy processes and institutions. One line of action has been to carry out a gender analysis of women’s participation in different sectors of the economy and society. One such study examines the effects of inter-sectional discrimination of race, class and gender in the lives of Afro-descendent women and the steps they take to overcome it (Woods Downs, 2002). Another policy process involves studying the public policy in the RACCN and RACCS from a gender and ethnicity perspective (Voces Caribeñas, 2014).

Violence against women is recognized in international and regional human rights treaties as one of the most pervasive and enduring causes of women’s limited participation in all spheres of life. Indeed, this has been one of the most important issues that Nicaraguan women, and Coast women in particular, have organized around. Much of the work has been done in the area of **complementary implementation** of services to improve women’s access to justice. Women’s alternative centres (NGOs) from the Pacific have either set up offices in the Caribbean or they have programmes where they coordinate with other groups to provide training workshops to their members. Also, Coast women’s organizations have set up services, particularly in the RACCN. Examples are a shelter for battered women in Bilwi (Nydia White centre), Wangki Tangni’s network of women human rights defenders based in the Miskitu communities around Waspam and elsewhere (Madre, 2014), and Las Gaviotas’s work with Mestizo human rights defenders principally in the mining triangle and Bilwi (AHV Gaviota, 2010). In the RACCS, civil society has organized mostly in the form of an awareness-raising and advocacy network. The Centre for Studies and Information of Multi-ethnic Women (CEIMM) of URACCAN has contributed to many of these and related efforts. Both national and Coast women’s NGOs have used networks of volunteers, often called promoters or popular defenders, to support women in their neighbourhoods and communities by providing them information about the laws and their rights (Law 230 of 1996; Law 287 of 1998; Law 779 of 2012) and by accompanying them to the different institutions to make sure they are applied. Local and national networks on violence against women also hold awareness-raising campaigns. Materials are translated usually into Miskitu and English or Creole.

One great challenge that indigenous women’s groups in the RACCN are seeking to address is how to end violence against women – especially domestic violence – in ways that are both in keeping with women’s individual rights as well as respectful of indigenous traditions (Figueroa Romero and Barbeyto, 2014). For example, while mediation in the positive law tradition has been made illegal in most cases because it systematically thwarts women’s rights to justice, indigenous and Afro-descendent communities have their own traditions of negotiation and conflict resolution by traditional leaders called *wihtas*. One way that the indigenous women’s group, Wangki Tangni, in coordination with a women’s research institute, CEIMM at URACCAN, has addressed this difference in perspective has been to provide sensitization training to *wihtas*, who are also authorized to apply lower-level positive laws in the communities because of the absence of representatives of state police and judicial operators. Another is to work with the women in particular and the communities in general so that everyone understands the law and they can work both on prevention as well as on ensuring that at least more serious situations of violence against women are sent to the capital so that positive law will be applied.

**Monitoring** of state responses has also been an important strategy used by civil society groups, especially given that often few women and girls who suffer gender-based and sexual violence ever report the incident, let alone receive justice (prevention, protection, sanction of aggressor or reparations). These have taken the form of reports and regional and national forums with the presence of state and civil society actors, as well as street mobilizations and festivals (AHV Gaviota, 2010; Red de Mujeres contra la Violencia, 2012).

**International accountability mechanisms** havebeen invoked at least once to address violence against women and girls in the autonomous regions. This is a case in which army officials are accused of sexual violence against girls and boys from a community where a military base is located. Instead of following the judicial route to provide justice to these children, the military accused the head of the community of libel and slander (Romero, 2011). The case was taken to the IACHR in October 2011 as part of a submission on violations of women’s and girls’ human rights related to state responses (CEJIL, 2011).

1. **Challenges Faced by Civil Society in Promoting Autonomy and Human Rights**

These internal challenges faced by Coast civil society organizations reflect both the current situation of autonomy as well as issues facing civil society in general in Latin America (Alvarez, Dagnino and Escobar, 1998). This section will briefly discuss some challenges faced within the sphere of civil society, in relation to the state, and economic issues.

It is important to start with how civil society organizations see themselves. The Coast civil society leaders that were interviewed for this paper expressed that in their experience, civil society consists of organized communities in the public sphere that come together to express their shared concerns regarding their civil, political, economic, social, cultural and environmental rights. This organizing may begin as a spontaneous movement or expression to address a particular need or concern and reach out to others with similar issues and exchange information. It may then build up to set and reach common goals so the government can address their concerns in its policies and programmes. In this way, civil society ensures inclusion of everyone in the autonomous regions, whether they may be supportive or critical of the government.

Civil society organizations on the Caribbean coast have coordinated their work together in different ways. The Civil Society Committee in each region brings together NGOs from the region as well as national NGOs implementing a project in the region. Coast civil society leaders state that there are sometimes rifts in their coordination with Pacific-based NGOs because of the latter’s lack of understanding of what is involved with building a multiethnic and pluri-cultural democracy. For example, while national NGOs might identify the problems in the Caribbean autonomous regions as being related to poverty and a lack of democracy, Coast civil society leaders see a population that has been impoverished by racist central government policies and attitudes that maintain the Coast population’s marginalization. In these situations, Coast NGOs sometimes turn to other Coast associations, such as the Ecumenical Councils of Churches of the Autonomous Regions or the Autonomous Youth Regional Councils (Hooker Coe, 2006).

Almost all civil society leaders interviewed recognize the strategic importance of NGOs, particularly because they have resources to go to the communities and carry out activities, whether these are for complementary programme implementation, for monitoring policy implementation, or to coordinate a strategy to take legal action to defend certain rights. Even while NGOs may have the resources to go to the communities, these structures and possibilities are shaped by the legal framework of the NGO, as well as its access to funding. Given the very high costs for travel between communities and other infrastructural difficulties, organizing social movements without the legal mandate of an NGO – or other legally recognized form of organization or association – may be quite difficult to maintain.

At the same time that NGOs can play such a vital role, they are only one form of expression of civil society. The leaders consulted maintained that NGOs were not representative of civil society as a whole because their legal responsibilities are defined in their incorporation documents and they are not legally accountable to the rest of civil society.

Civil society organizations sometimes confront obstacles in their interactions with the state as a result of carrying out this role as guardian of autonomy and human rights. Part of the problem may be due to lack of effective communication and coordination mechanisms between the government and civil society. Yet experience often points to the central or regional government’s limited acceptance of civil society’s independence or autonomy from the state. Government criticism of civil society organizations and leaders has taken a variety of forms over the period since autonomy was recognized. This might involve subtler forms, such as restricting access to participation, resources, etc. if a CSO’s analysis or critique is not appreciated. Some of the leaders interviewed testified that government actors’ criticism and attacks on civil society organizations and leaders have occasionally amounted to political persecution. This might be manifested as warnings or by summarily replacing an elected leader by someone with a more compliant approach.

In Nicaragua in general and also in the Caribbean autonomous regions, civil society sometimes faces difficulties in asserting its independence from the state. One way this occurs is by government or political party actors aiming to influence the agenda of civil society and NGOs in order to avoid criticism from civil society, or to seek their support during elections. Another way identified is that NGO or other leaders have occasionally sought to develop a “special” relationship with the state in order to influence a particular policy, programme or law. Yet another way this may take place is by leaders working simultaneously in government and civil society, which can be considered a conflict of interest.

Conflicts between Coast CSOs and the state may take place with either the central or regional governments. Those in regional government may not necessarily be supportive of human rights (collective, ancestral, autonomous rights) if these are seen as conflicting with the power and legitimacy of government. Contradictions with the regional government are underlined by the fact that government representatives come from mostly the same political parties as those in the central government. Even though the official discourse of all political parties operating on the Coast is always in defence of autonomy, as political parties, they ultimately pursue electoral and related ends.

Finally, the biggest challenge to defending autonomy and human rights that NGOs face in the economic sphere is financial sustainability. Most regional and national NGOs are wholly dependent on foreign donations to carry out their work. Regional NGOs’ access to international donors is limited by several factors: distance from the capital (high costs for monitoring by donor agency); elevated costs of working in the Caribbean due to transportation costs and geographic distances; decrease in overall funds and numbers of agencies working in Nicaragua due to political corruption; overall decrease in bilateral and multilateral development cooperation funds flowing in to Nicaragua; occasional attempts by the central government to control and filter donations to NGOs; and Nicaragua’s shift to being classified as a lower-middle income country. Added to these barriers is a competition for the remaining funds. Organizations must make sure their work is complementary to others, for example by location or topics addressed. This may also facilitate an ever more popular form of funding in Central America in general, which is through funding projects proposed by consortia of two or more national and/or regional NGOs.

Overall, this section has shown both the main strategies used by Coast civil society to make autonomy and human rights a lived reality for the inhabitants of the autonomous regions, as well as some of the barriers they face in carrying out this role.

1. **CONCLUSIONS**

This paper on the normative framework for the autonomous Caribbean coast regions of Nicaragua (RACCN and RACCS) and its implementation since 1990 is intended to offer lessons that could be used to inform or improve the design of normative frameworks for autonomy, as well as planning, implementation, monitoring, learning and oversight, whether in Nicaragua, Morocco or elsewhere. These conclusions address why autonomy has so far been implemented in a restricted way and what civil society has contributed to improving (or limiting) its application.

The first lesson is that **no matter what the content of the autonomy framework, all actors need to be vigilant regarding its implementation to ensure the defence and exercise of all people’s human rights**. Actors must ensure that the autonomy laws provide the best possible framework to guarantee that all inhabitants of the autonomous region, especially those who are discriminated against by intersectional relations of power, have equitable access to exercising their rights. That said, even though the Nicaraguan framework has several provisions regarding individual and collective rights, collective rights have in particular been systematically denied, and have sometimes only been upheld in practice because of binding international accountability mechanisms. The central state’s commitment to the neoliberal model, as well as dynamics of corruption – which have existed no matter which party has been in power – have oriented state actions more than the commitments undertaken in the autonomy laws. Therefore, even though achieving a robust autonomy model on paper is a significant achievement, it is just one of many steps because implementation requires continuous monitoring.

The second lesson is that **civil society has indeed served as a guardian or champion of autonomy and human rights** in the Nicaraguan experience. This might be considered as positive, as it means that Coast civil society groups have a leading role to play in ensuring that policies and programmes are coherent with the worldview of indigenous and Afro-descendent communities. However, it could also be seen as negative, as it raises the critique of whether the state should be taking on some of those responsibilities as the main guarantor of human rights. At the same time, it is not always easy or relevant to adjudicate. For example, while one of the successes identified of the autonomy process has been the ample spaces for dialogue among different state and civil society actors, the paper has shown that the existence of those mechanisms has largely been the result of the monitoring and policy proposal role of CSOs; and furthermore, these mechanisms only functioned while a particular programme was being implemented or until there was a change in government. Although perhaps state actors should have created a general consultation and/or decision-making mechanism, it is also fitting that civil society participates in their design. The fact that these spaces have had limited functionality is more evidence of the need for continual monitoring, as well as oversight. It is also an indication that future reforms to the normative framework of autonomy need to ensure coordination and decision-making mechanisms at a strategic level, as well as regional or national level dispute-settling mechanisms. These should be intermediary steps between monitoring and policy proposals and seeking recourse to international accountability mechanisms. And it should go without saying that the decision-making power in these bodies needs to be distributed equitably.

Third, **even though Coast NGOs and CSOs have encountered some challenges and contradictions in implementing their self-assigned three main roles** – complementary programme implementation, monitoring and policy proposals, and recourse to international accountability mechanisms – the overview of thirty years of experience provided in this paper has shown that **the actors have often implemented them in broadly coherent ways**. If the state does not guarantee the bilingual and intercultural education rights of Coast communities, and it is unlikely that it shall in the near future, it makes sense that actors committed to this potentially transformational process be involved in delivering this service so that the children who are beneficiaries can exercise this right. This is so, even if, as an NGO-based development project, it would not have universal coverage. At the same time, there also needs to be some kind of monitoring as to whether complementary programmes in any sector – no matter which actor implements them – are indeed effective, so that limited resources can be used to have the greatest impact. This would require considerably closer coordination among CSOs and other actors than currently exists, which implies a further challenge for these actors. As for the role of NGOs in particular, even if NGOs are not representative of civil society as a whole, they can provide technical and financial resources, for example to advocate for implementation at the international level or implement small-scale, model development projects, where other actors cannot. That said, autonomy statutes need to be strong, as well as the regulatory framework for NGOs, so that NGOs and civil society can contribute to furthering human and autonomy rights through the programming work of civil society as well as its monitoring and oversight roles. In the end, without a strong civil society of diverse actors coordinating at the local (i.e. autonomous region), national and international levels, citizens of the autonomous region might be unaware of their rights, let alone have the capacity to defend them and ensure that the state provides the means to ensure their fulfilment.

Fourth, **international actors have prime roles to play in implementing an autonomy regime**, whether they entail accompanying local civil society or other actors in implementing the regime or being part of the binding international accountability mechanisms. Recourse to these mechanisms, while not an everyday measure, needs to be recognized as a *sine qua non* factor to ensure that human rights are protected when the state systematically fails to comply with its obligations. In this sense, the central state is not only accountable to its citizens and inhabitants, but also to the international community. The power of accountability mechanisms lies in the binding nature of their rulings. At the same time, such recourse is not a panacea, as the Awas Tingni case shows; rather, it is part of a complex cycle that civil society actors need to have the capacity, resources, and support to be able to continue monitoring.

Fifth and finally, **the effectiveness of the normative framework for autonomy is also dependent on how state and civil society actors deal with the underlying power structures**, which include and extend beyond those that are ethnically defined. In the case of Nicaragua, the regional government does have an equitable system for designated seats for indigenous and Afro-descendent communities, thus they may not necessarily be adequately represented in a government that was created for this purpose. Equitable representation is long overdue, and when implemented it will contribute to decreasing unequal power structures. However, formal change is not likely to eradicate, in and of itself, powerful social structures. With regards to other power structures, an intersectional power analysis can expose how gender-based discrimination cuts across ethnic and other divisions in society and the state (Crenshaw, 1995). Addressing these forms of discrimination holistically – e.g. through promoting women’s organizing, preventing, sanctioning and eliminating gender-based and sexual discrimination and violence, as well as through participation, decision-making and representation at all levels of society and the state – is necessary to uphold the principles of universality, indivisibility and inalienability of human rights for all people, as well as the integrity of our environment.

The 1987 autonomy regime brought a peaceful end to the 1980s armed conflict between the central state on the one hand and the indigenous and Afro-descendent communities and other actors of the two Caribbean autonomous regions on the other. The experiences analyzed in this paper show how some of the dynamics that began five hundred years ago have evolved considerably over time but can still be traced in some way to today’s continued struggle to fully implement autonomy and defend and exercise all human rights of Coast people. It is because of these ongoing and underlying, unequal power structures that civil society still needs to engage in different but complementary roles so that exercising individual and collective rights in the autonomous regions become a daily reality. As one civil society leader expressed, **“all [civil society] work should be aimed at fulfilling the ‘dream of autonomy’.”** Indeed, this should be the aim of all relevant state and civil society actors at the regional, national and international levels.

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1. Ms Woods Downs is an independent consultant who has been a member or leader of a number of civil society groups on the Caribbean coast of Nicaragua. She wrote this paper with Ms Nadine Jubb. [↑](#footnote-ref-1)
2. People from the Caribbean Coast autonomous regions are called Coast people (even though the regions stretch into the interior the country) or *Costeños/Costeñas* in Spanish. [↑](#footnote-ref-2)
3. Although other barriers also exist, notably in the cultural field, these will not be a focus of this paper due to space limits. [↑](#footnote-ref-3)
4. In Spanish, the two regions are called *Región Autónoma de la Costa Caribe Norte (RACCN)* and *Región Autónoma de la Costa Caribe Sur (RACCS)*. The Spanish acronyms will be used in the text. These are the official terms that have been used since 2014, which reflect the language that Coast people have always used. The previous official terms (North and South Atlantic Autonomous Region(s)) reflect the language of the central government and people from the Pacific and central regions of Nicaragua. [↑](#footnote-ref-4)
5. In the Nicaraguan legal tradition, a regulatory law provides the details of how an ordinary law will be implemented. [↑](#footnote-ref-5)
6. Throughout the text, regional is used to refer to the two autonomous regions of Nicaragua. It is not used to refer to a supranational category (e.g. Latin America). [↑](#footnote-ref-6)
7. The debates raised in this and the following paragraphs are analyzed in Alvarez, Dagnino and Escobar (1998). [↑](#footnote-ref-7)
8. Although the paper refers to a number of binary categories, this is a simplification to focus on key aspects of the analysis given space considerations. [↑](#footnote-ref-8)
9. There are various spellings, but generally Miskitu is used by the people themselves, Mosquito by the British, and now Miskito is commonly used in English and Spanish. [↑](#footnote-ref-9)
10. Major shifts took place among the indigenous and Afro-descendent populations over this period, although there is not enough space here to give an adequate treatment. Please see Romero Vargas (1996) for an in-depth discussion. [↑](#footnote-ref-10)
11. “Moroccan Initiative for Negotiating an Autonomy Statute for the Saharan Region”, United Nations Security Council Document S/2007/206 of 13 April 2007. [↑](#footnote-ref-11)
12. Translated version of law 28 found at: <http://calpi.nativeweb.org/doc_3.html> [accessed 14 April 2015]. [↑](#footnote-ref-12)
13. The Inter-American Human Rights System is part of the Organization of American States (OAS). [↑](#footnote-ref-13)
14. Often a regulatory law is passed 1 or more years after the ordinary legislation. [↑](#footnote-ref-14)
15. *“Colonos”* [Colonists] are peasant farmers who have moved from the centre and Pacific zones of Nicaragua and crossed “the agricultural frontier” to set up farms and communities on communal lands in the autonomous regions. [↑](#footnote-ref-15)
16. Centro por la Justicia y el Derecho Internacional (CEJIL), Estado de Nicaragua, Centro por la Justicia y Derechos Humanos de la Costa Atlántica de Nicaragua (CEJUDHCAN), Asociación de Mujeres Indígenas de la Costa Atlántica (AMICA), appeared at the 153rd ordinary session of the IACHR on 28 October 2014. [↑](#footnote-ref-16)