

Press Release

Inter-American Court of Human Rights

I/A Court H.R._PR-103/2020 English

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I/A Court H.R. Protecting Rights

GUATEMALA IS RESPONSIBLE FOR VIOLATING THE FREEDOM OF EXPRESSION AND CULTURAL RIGHTS OF FOUR INDIGENOUS COMMUNITIES OPERATING COMMUNITY RADIO STATIONS

San José, Costa Rica, December 17, 2021. In the judgment notified today in the Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala, the Inter-American Court of Human Rights found the State of Guatemala internationally responsible for the violation of the rights to freedom of expression, equality before the law and to participate in cultural life, to the detriment of the Maya Kaqchikel of Sumpango, Maya Achí of San Miguel Chicaj, Maya Mam of Cajolá and Maya Mam of Todos Santos Cuchumatán indigenous communities. These violations occurred mainly because the regulatory framework concerning radio broadcasting in Guatemala, particularly the General Telecommunications Law (LGT), prevented, in practice, these indigenous communities from being able to legally operate their community radio stations.

Consult the official summary of the Judgment [here](#) and the complete text of the Judgment [here](#).

At least 43.6% of Guatemala's population is indigenous and approximately 80% of the indigenous population is considered poor.

In Guatemala, there are approximately 424 licensed radio stations on FM frequency and 90 on AM frequency, of which one is an indigenous community station. On the other hand, there are several community radio stations operated by indigenous peoples without a State license to operate, such as those operated by the Maya Kaqchikel de Sumpango, Maya Achí de San Miguel Chicaj, Maya Mam de Cajolá and Maya Mam of Todos Santos Cuchumatán indigenous communities.

The Ixchel and Uqul Tinamit La Voz del Pueblo radio stations, operated by the Kaqchikel communities of Sumpango and Achí de San Miguel Chicaj, were raided by state authorities as a result of court orders issued within the framework of criminal proceedings. The transmission equipment was confiscated and some of its operators, members of the respective communities, were criminally prosecuted. Radio Ixchel suspended broadcasting for seven months and community members had to collect funds to buy new equipment in order to be able to resume broadcasting. Radio Uqul Tinamit also stopped broadcasting after suffering a second raid.

In the Judgment, the Court recalled that freedom of expression constitutes a cornerstone in the very existence of democratic society and highlighted the importance of media diversity in the exercise of said right. The Court indicated that States are internationally obliged to establish laws and public policies that democratize media access and guarantee diversity in news and media across all areas of communication, such as the radio. It also pointed out that indigenous people have a right to visible representation in different types of media, especially by virtue of their unique ways of life, their community relationships and the importance that the media, especially radio, plays for them. Accordingly, indigenous people have the right to establish and use their own forms of media communication.

The Court recognized that community radio stations, in addition to enabling indigenous people to participate more fully in the public sphere, are an essential tool for the conservation, transmission and continuous development of their cultures and languages. Access to their own community radio stations, as vehicles for the freedom of expression of indigenous people, is an essential component in promoting the identity, language, culture, self-representation, and collective and human rights of indigenous peoples. For this reason, States are obliged to adopt the necessary measures that allow indigenous communities access to the radio frequency of community radio stations.

Due to the structural and historical discrimination suffered by indigenous people, the Court indicated that Guatemala should take all necessary measures to reverse the various levels of disadvantage they experience and ensure access to radio frequencies, in order to guarantee the material equality of these communities compared to other sections of society with the economic circumstances to compete in auctions for the acquisition of radioelectric frequencies, whose sole criterion is the highest price.

The Court determined that the way in which broadcasting is regulated in Guatemala consists of a de facto, almost absolute prohibition on the exercise of the right to freedom of expression of indigenous communities and, in turn, prevents them from exercising their right to participate in cultural life. Thus, the Court found that Guatemala violated the rights to freedom of expression, equality before the law and to participate in cultural life, to the detriment of the Maya Kaqchikel of Sumpango, Achí de San Miguel Chicaj, Mam de Cajolá and Mam of Todos Santos Cuchumatán indigenous communities.

The Court also considered that the raids and seizures of equipment from the Ixchel and "La Voz del Pueblo" radio stations constituted illegitimate actions and a restriction on the right to freedom of expression contrary to the Convention, and consequently, the Court concluded that Guatemala is responsible for the violation of said right, to the detriment of the Maya Kaqchikel indigenous peoples of Sumpango and Maya Achí of San Miguel Chicaj.

In light of these violations, the Court ordered various measures of reparation, among others: 1) to adopt the necessary measures to allow the indigenous communities identified as victims of this case to freely operate their community radio stations; 2) to adapt internal regulations in order to recognize community radio stations as distinct means of communication, particularly indigenous community radio stations; 3) to regulate their operation, establishing a simple procedure for obtaining licenses; 4) to reserve part of the radio frequency spectrum for indigenous community radio stations; 5) to immediately refrain from criminally prosecuting the individuals who operate indigenous community radio stations, raiding said radio stations or seizing their broadcasting equipment, and 6) to strike the convictions and any related consequences for people from indigenous communities convicted of using the radio frequency spectrum.

Judges Patricio Pazmiño Freire, Eduardo Ferrer Mac-Gregor Poisot, Eugenio Raúl Zaffaroni and Ricardo Pérez Manrique informed the Court of their separate opinions. Judge Eduardo Vio Grossi informed the Court of his partially dissenting opinion.

The Court's composition for the issuance of this Judgment was as follows: Judge Elizabeth Odio Benito, President (Costa Rica), Judge Patricio Pazmiño Freire, Vice President (Ecuador), Judge Eduardo Vio Grossi (Chile), Judge Eduardo Ferrer Mac-Gregor (Mexico), Judge Eugenio Raúl Zaffaroni (Argentina), and Judge Ricardo Pérez Manrique (Uruguay).

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