

GUATEMALA
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**JOINT CONTRIBUTION BY THE CENTRE FOR INFORMATIVE
REPORTS ON GUATEMALA (CERIGUA) AND REPORTERS
WITHOUT BORDERS (RSF) ON THE SITUATION OF MEDIA
FREEDOM IN GUATEMALA**

1. The Centre for Informative Reports on Guatemala (Cerigua) is an NGO that is the leading specialist in free speech, media freedom and the protection of journalists in Guatemala. It has 34 years of experience and is recognized nationally and internationally as an authority in these fields. It promotes the training of journalists and has a Journalists Observatory that is unique in Central America. The Observatory designs and develops reliable and systematically updated databases on attacks on journalists. It compiles maps of high-risk areas and monitors and helps threatened journalists. The Department of Public Prosecutions and the Interior Ministry often request Cerigua's assistance in connection with attacks on journalists.

2. Reporters Without Borders (RSF) is a Paris-based NGO that has defended media freedom internationally since 1985 and has consultative status with UNESCO. Its foreign sections, its bureaux in ten international cities and its network of correspondents in 130 countries enable it to monitor the situation of freedom of expression worldwide. RSF opened a regional bureau for Latin America in Rio de Janeiro in 2015. Guatemala is ranked 121st out of 180 countries in RSF's 2016 World Press Freedom Index.

I. Risk situation and work environment

3. The environment in which Guatemalan journalists and other information providers operate is dangerous and hostile. Impunity continues to protect journalists' murderers and the many opponents of free speech, media freedom and the right to information.

4. The number of murders of journalists has increased in recent years. Cerigua's Journalists Observatory and RSF registered 18 cases of murders of journalists and media workers in Guatemala from the start of 2013 to March 2017. Because of the prevailing impunity and the judicial system's slowness, it has not been possible to establish a direct link between the murder and the victim's journalistic activity in many of these cases.

5. The past year, 2016, has been the most violent ever for Guatemala's journalists, with nine murders and three attempted murders. Cerigua tallied 258 attacks against journalists from 2012 to 2016, and 179 from 2008 to 2011.

6. Most of the cases of violence against journalists were registered in the country's most dangerous regions. Organized crime and drug traffickers have imposed a climate of censorship and self-censorship that prevents journalists from covering sensitive subjects, to the detriment of media freedom and the right to information. The groups linked to organized crime have constituted the main threat to the media for some years.

7. This is compounded by the activities of certain local elected officials (including mayors and parliamentarians) and representatives of the state (including police officers), who also directly censor and threaten journalists.

8. An investigation by the Department of Public Prosecutions established that a parliamentarian was the instigator of the murder of two journalists in Suchitepéquez in March 2015. The journalists had written articles that were detrimental to his interests. In certain extreme cases in recent years, officials have intimidated, threatened and even physically attacked journalists because of their work.

II. Impunity for murders of journalists

9. A total of 36 journalists and information providers have been murdered since 2000. In only two of these cases have the perpetrators been arrested: the murder of Jorge Mérida (a correspondent for the newspaper Prensa Libre) in Coatepeque in 2008, and the murders of Danilo Zapón López, Federico Salazar and Guido Villatoro in Suchitepéquez in 2015.

10. Only Jorge Mérida's murder has resulted in a trial and conviction. The other cases are still being investigated.

11. In November 2016, justice minister Thelma Aldana announced the restructuring of the Unit for Crimes against Journalists (Unidad de Delitos contra Periodistas) and an increase in its resources. This restructuring could lead to the creation of a special prosecutor's office for attacks against journalists, attached to the Department of Public Prosecutions. The justice

minister also proposed creating an offshoot of this special prosecutor's office in Quetzaltenango, one of the country's most violent departments. RSF and Cerigua welcomed her announcement, but no action has so far been taken and it has had no effect.

III. Programme for protecting journalists

12. Journalists pressure for the creation of a national mechanism for the protection of journalists has been growing since 2012. The government responded positively at the time, going so far as to raise the idea publicly in the National Palace of Culture on 3 May 2012, World Press Freedom Day. But nothing has materialized since then.

13. During its Universal Periodic Review (UPR) in November 2012, Guatemala undertook to create a mechanism for protecting journalists. Other states made recommendations to Guatemala on this subject, all of which were accepted. They included actions to effectively protect journalists, promote a safe work framework, adopt pro-active measures to combat impunity, and guarantee unrestricted access to information.

14. The plan for creating the mechanism was frozen in 2013, at a time when the level of risk was increasing. The government then created a technical commission, one without any real journalistic representatives.

15. More recently, in July 2016, President Jimmy Morales expressed his unconditional backing for a new protection proposal by an unprecedented coalition of 16 journalistic associations and entities based in the capital and the provincial departments. The proposal envisages the creation of a Programme for the Protection of Journalists (Programa de Protección a Periodistas) that is adapted to the risks for journalists in accordance with the undertaking given by Guatemala during the 2012 UPR.

16. The proposal, the result of four years of work by the authorities and the 16 civil society organizations comprising the coalition, is based on a diagnosis of the state of freedom of expression in Guatemala, the effect of violence on journalists, the state's obligations in this domain, regional precedents, how journalists work and the individuals who need protecting.

17. The Office of the United Nations High Commissioner for Human Rights and the Special Rapporteur for freedom of expression of the OAS Inter-American Commission on Human Rights have expressed their support for this coalition and for this project, offering to assist and make their technical resources available to the process.

18. At the Guatemalan state's request, UNESCO has also provided the proposed protection programme with effective support.

19. The government approved the proposal in its entirety, reaffirming the need to create a favourable environment for journalism and to provide officials and authorities with the sufficient resources for ensuring respect for the fundamental rights of free speech and media

freedom. The government also endorsed the creation of a Unit for Monitoring Violence against the Media, in order to have an official, reliable and verifiable database.

20. Despite these declarations of good intentions, President Morales and the Interior Ministry have still not signed the agreement that would formally launch this programme's creation. The government's members have remained indifferent to the violence and have not respected their undertakings, although the risk level continues to be very high. The bureaucracy has frozen the process.

IV. Pluralism and diversity: community radio stations

21. Community radio stations are a leading means of mass communication in many of Guatemala's municipalities and departments, especially in those areas with an indigenous majority, those without Internet access and those without other traditional media such as television.

22. These radio stations play a key role in covering local news and events related to local culture and traditions. But the authorities have not established any legislative framework and regulatory provisions for their activities. On the contrary, the authorities usually criminalize those who run community radio stations, which are described as "pirate or illegal" stations.

23. Until 2002, the only legal way to officially obtain radio broadcast frequencies was to participate in auctions, an anti-democratic procedure that has repeatedly been criticized by the Office of the Special Rapporteur for freedom of expression of the Inter-American Commission on Human Rights and by successive UN rapporteurs for freedom of expression.

24. Guatemala's Constitutional Court (Corte de Constitucionalidad) banned these auctions in 2002, but the Guatemalan state still does not recognize community radio stations and does not legislate in their favour. It is impossible for these communities to compete with the big companies that pay very large sums for commercial frequencies.

25. A proposed "Law on Community Media" (Law No. 4087) designed to regulate the activity of these media was submitted to the Congress of the Republic in 2009. It was approved by the Committee for Indigenous Peoples and was approved on first reading by deputies. But it was suspended on second reading. In March 2012, the Constitutional Court issued a recommendation urging Congress to make it possible for indigenous peoples to obtain and use these broadcast frequencies.

26. Congress ignored the recommendation and, in November 2012, in a summary and arbitrary manner, amended the General Law on Telecommunications so as to extend the duration of the use of these frequencies from 15 to 20 years, with the possibility of renewing a frequency without having to pay the state.

27. In February 2016, Congress formed a technical committee to discuss proposed Law No.

4087, raising the hope that it would be approved on third reading. Nonetheless, it was suspended again.

28. In addition to being denied recognition by the state, community radio stations are spurned by the Chamber of Radio Broadcasting (Cámara de Radiodifusión), the leading private-sector entity grouping big radio station owners, which has conducted several media campaigns stigmatizing and discrediting the work and role of community radio.

Recommendations

29. That the state should approve and implement the Programme for the Protection of Journalists (Programa de Protección a Periodistas) in consultation with journalists associations and the organizations that promote the right to free speech and media freedom in Guatemala, and with their active participation.

30. That the Justice Ministry should reinforce the Unit for Crimes against Journalists by, as promised, allocating it the qualified personnel and resources needed to speed up investigations, convict those responsible for physically attacking and murdering journalists, and ensure that victims and their families receive fair reparation.

31. That the Interior Ministry (Ministerio de Gobernación) should investigate the circumstances in which journalists incur risks and should take appropriate measures for prevention and protection at the national and local levels. And that it should create a Unit for Monitoring Violence against the Media in order to have a reliable and official database of these attacks.

32. That Congress should put proposed Law No. 4087 back on its agenda, so that the indigenous peoples obtain the right to use broadcast frequencies in accordance with the requests of community radio stations and the recommendations of the OAS Special Rapporteur for freedom of expression.

33. That the General Law on Telecommunications should be amended so as to bring it into line with the relevant international standards in effect, and that priority should not be given to economic criteria when allocating broadcast frequencies.

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