

Mid-Term Report

Stakeholder Submission on the Government of Guatemala

Lack of Implementation of Recommendation 99.78: Protecting Indigenous Community Radio Stations

**Submitted by Cultural Survival, Association Mujb'ab'l yol
(Encounter of Expressions) and Asociación Sobrevivencia Cultural**

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I. Reporting Organizations

1. **La Asociación Sobrevivencia Cultural** is legally registered as a nonprofit in Guatemala. The staff is composed of 80% Indigenous people who speak five Mayan languages, and the board of directors is 65% Indigenous. It is an organization that promotes citizenship participation and the strengthening of the cultural diversity of Guatemala. Through community radio, it has a presence in 14 departments: Guatemala, Sacatepéquez, Chimaltenango, Sololá, K'iche', Totonicapán, Quetzaltenango, San Marcos, Huehuetenango, Suchitepéquez, Baja Verapaz, Chiquimula, Jalapa, Zacapa; and in nine linguistic communities of the country which are: Kaqchikel, Tz'utuhil, K'iche', Mam, Q'anjoba'l, Chuj, Popti, Achi', Poqomam, besides Spanish.
2. **Mujb'ab'1 yol (Meeting of Expressions) Association** is a community association and a legally registered entity involved in the struggle of the indigenous peoples for the democratization of communication, especially so that community radio is recognized within the legal framework of the country. In addition, the organization facilitates education and training in communication, aimed toward promoting development, peace accords, preservation of history, environment, self-esteem, gender equality, community leadership, youth, Maya worldview, radio phonic formats, analysis of current topics, amongst other things. It also produces radio phonic material to enable community radio stations to strengthen their programming. The production of material is done in the maternal tongues of the indigenous peoples. Mujb'ab'1 yol association has 20 affiliated community radio stations in 8 provinces/states of Guatemala.
3. **Cultural Survival, Inc.** is a 501 (c) (3) nonprofit organization based in the United States. Established in 1972, its mission is to work with Indigenous communities across the world to secure and protect their rights, voices, and visions. Cultural Survival currently works in a number of countries around the world, including Guatemala, Mexico, Bangladesh, Panama, Kenya, Papua New Guinea, Russia, Ethiopia, and the United States. Cultural Survival also promotes the rights of Indigenous communities at the United Nations through our consultative status with ECOSOC. As of 2012, the Cultural Survival board of directors includes some of the world's preeminent Indigenous leaders, and our staff, headed by Navajo/Santa Clara Tewa environmental advocate Suzanne Benally, includes both indigenous and non-Indigenous members.

II. Guatemala Continues to Fail to Implement UPR Recommendations on Community Access to Radio Frequencies

4. This report is a midterm evaluation of the recommendations received by Guatemala during the first and second UPR reviews. It focuses specifically on the rights of the indigenous peoples to freedom of expression, culture and media.
5. The Government of Guatemala has received and accepted two recommendations during the United Nations Human Rights Council's Universal Periodic Review ("UPR") on improving access to radio frequencies by communities, in particular indigenous communities. In 2008, Norway recommended to Guatemala: "Reform the law on radio communication in order to

guarantee the proper and free functioning of local radios.”¹ In 2012, Norway reiterated its 2008 recommendation urging Guatemala to follow through with the reform then urged by its Constitutional Court:

Follow up its Constitutional Court's decision that urges the legislative power to reform the legislation concerning access of indigenous people to radio frequencies to promote, develop and diffuse their languages, traditions and other cultural expression and reform the law on radio communication in order to guarantee the proper and free functioning of local radios.²

6. Despite accepting these recommendations, Guatemala has yet to implement them. Instead, Guatemala is actively preventing indigenous communities from exercising their rights to freedom of expression and culture by raiding community radio stations and considering legislation which would criminalize the operation of such stations.

III. Importance and History of Community Radio for Indigenous Peoples

7. Community radio stations and equal access to radio frequencies is contributes to indigenous peoples preserving their cultures and languages. Community radio is vital; its allows news and essential information to be communicated to all members of the community. With the lack of electricity, there is little opportunity for daily access to internet or even telephones, making radio frequencies an important mode of communication necessary in keeping the indigenous peoples connected as a community.
8. Furthermore, oral traditions within these communities are extremely important and language is an important part of ensuring that these oral traditions are shared among generations. For example, the community radio program designed by Cultural Survival to unify and strengthen communication among these indigenous communities while keeping in line with their oral traditions. The programs, which are developed by community members and aired in Indigenous languages on more than fifty radio stations, keep Mayan communities informed about the government's granting of concessions on their traditional territories, alert them to potential consequences, and offer strategies for asserting their rights to Free, Prior, and Informed Consent (FPIC).
9. Despite years of lobbying for amendments to Guatemala’s telecommunications law, the law remains unchanged, making it near impossible for communities to obtain a state-sanctioned radio frequency. In 2012, the reporting organizations filed a petition with the Constitutional Court of Guatemala which issued a decision urging the legislative power of Guatemala to reform the legislation concerning access of indigenous people to radio frequencies to promote, develop, and diffuse their languages, traditions and other cultural expression and reform the law on radio communication in order to guarantee the proper and free functioning of local radios. No action was taken in response to this decision. On September 28th, 2012, the three organizations filed a petition with the Inter-American Committee on Human Rights

¹ UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Guatemala*, 29 May 2008, A/HRC/8/38; A/HRC/WG.6/2/L.4, available at: <http://www.refworld.org/docid/485b962f0.html> (accessed 23 Feb. 2015).

² UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Guatemala*, 31 December 2012, A/HRC/22/8, available at: <http://www.refworld.org/docid/50f91f3a2.html> (accessed 23 Feb. 2015).

outlining violations of the American Convention on Human Rights and the American Declaration on the Rights and Duties of Man.

IV. Raids of Indigenous Community Radio Stations and Legislative Action to Criminalize Community Radio

10. Since Guatemala's last UPR in 2012, there have been six government raids on indigenous community radio stations in Guatemala:

- Oct. 11, 2012, Radio Doble Vía of San Mateo, Quetzaltenango (equipment seized)³
- November 15, 2012, Radio Damasco of San Pablo, San Marcos (equipment seized)⁴
- November 21, 2013, Radio Damasco of San Pablo, San Marcos (equipment seized and Director in custody for 5 days)⁵
- February 27, 2014, Radio San José of San Pedro, San Marcos (equipment seized and volunteer in custody for 5 weeks)⁶
- December 9, 2014, Radio Juventud (Equipment seized)⁷
- January 20, 2015, Radio Snuq' Jolom Konob (Mayor shut down station).

11. If the raids were not proof enough of Guatemala inaction, a new bill, Initiative 4479, was introduced in Congress on July 10, 2012. The bill would amend current Guatemalan laws to criminalize the unauthorized use of radio frequencies.⁸ Initiative 4479 would not only shut down the community radio stations who are currently fighting for legalization, but it would also sanction a ten year detention penalty for participants in the operation of any such unauthorized radio stations.

V. Conclusion

12. Since its 2012 Universal Periodic Review, Guatemala has yet to make efforts on improving access to radio frequencies for indigenous communities. Its current laws prevent indigenous communities from obtaining radio frequencies to operate community radio and Guatemala's Congress is now considering amending those laws to make it a crime to operate a community radio station without a state authorization. Additionally, the government raided at least six indigenous community radio stations over the past two and half years, seizing equipment and arresting volunteer radio station operators. The refusal of Guatemala to implement recommendation 99.78 means that indigenous communities' rights to freedom of expression, culture and media are not respected, promoted or protected.

³ *Community Radio Station Doble Via Raided by Guatemalan Police*, Cultural Survival (Oct. 16, 2012), <http://www.culturalsurvival.org/news/community-radio-station-doble-raided-guatemalan-police> .

⁴ *Police Raids Continue on Community Radio Stations in Guatemala*, KZFR (Mar. 3, 2014), <http://kzfr.org/posts/view/261> .

⁵ *Id.*

⁶ *Breaking News: Guatemalan Community Radio Station, Radio San José of San Pedro, Raided*, Cultural Survival (Feb. 28, 2014), <http://www.culturalsurvival.org/news/breaking-news-guatemalan-community-radio-station-radio-san-jose-raided> .

⁷ *Guatemalan Public Ministry Raids Radio Juventud in Solola*, Cultural Survival (Dec. 10, 2014), <http://www.culturalsurvival.org/news/guatemalan-public-ministry-raids-radio-juventud-solola> .

⁸ Mark Camp, *Inter-American Commission on Human Rights Reviews Freedom of Speech in Guatemala*, Cultural Survival (Feb. 26, 2013), <http://www.culturalsurvival.org/news/inter-american-commission-human-rights-reviews-freedom-speech>