



RESOLUTION ON GUATEMALA

Freedom of expression in Guatemala has come under threat from various government agencies which have been shown to be inclined to protect or not take action against private entities that limit or impede this fundamental right, enshrined in Article 35 of the Constitution of the Republic of Guatemala, which in the first paragraph states: “The expression of thought through any means of dissemination, without censorship or prior permission, is free. This constitutional right may not be restrained by [the] law or by any governmental provision.”¹ Later, in the second paragraph, it adds, “The publications which contain denunciations, criticisms, or accusations [*imputaciones*] against functionaries or public employees for actions conducted in the performance of their duties[,] do not constitute a crime or a fault.”

Journalists and media workers are the main source of information and debate concerning the serious human rights problems and corruption affecting the country. However, in its most recent report on human rights in Guatemala, the Inter-American Commission on Human Rights expressed its concern for the situation of journalists and human rights defenders who face acts of violence and attacks that range from murders, to repeated threats, harassment, criminalisation, stigmatisation and bullying.² Journalists in the interior of the country are especially vulnerable. Defenders of the environment in Guatemala have been acknowledged by a group of UN Rapporteurs as facing one of the greatest risks worldwide due to their activity in defence of the territory and the environment against large-scale projects that threaten their right to a healthy environment.³

What forms do such threats to freedom of expression take?

- 1. Activists and community leaders that protest against mining companies have been suppressed through intimidation, threat, imprisonment or murder for expressing their disagreement with the installation of mining companies, among others. In the same way, journalists who have covered such topics and informed on the real situation have faced the same fate.**

Some examples are:

- In the first half of 2017 alone, UDEFEGUA recorded 72 attacks against persons who defend human rights linked to the defence of the environment, nature, natural resources and water compared to 37 in the whole of the previous year.⁴

¹ Constitution of the Republic of Guatemala 1985, with amendments 1993, available in English at:

https://www.constituteproject.org/constitution/Guatemala_1993.pdf

² <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2017-en.pdf>

³ http://www.oas.org/en/iachr/media_center/PReleases/2017/088.asp

⁴ <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2017-en.pdf>

- “On Friday 5 July [2013], a peaceful sit-in was carried out outside the Public Prosecutor’s Office (*Ministerio Público*), families of persons who had been detained or were facing arrest warrants in Casillas, San Rafael las Flores, Santa Rosa and from Mataquescuintla and Jalapa demanded due process for their family members who resist the mining industry.”⁵ Xinka settlers from the departments of Santa Rosa, Jalapa and Jutiapa maintain sit-ins in front of the Constitutional Court (CC) to demand that the magistrates of that body resolve, in accordance with law, the definitive suspension of the mining project “El Escobal”.⁶
- “In Guatemala mining, hydroelectric and monoculture companies use methods of persuasion and exert pressure on rural communities to allow the operation of their ambitious projects.”⁷
- In November 2017, indigenous journalist and human rights defender, Jerson Antonio Xitumul Morales, was charged with ‘incitement to commit crimes,’ ‘threats’, and ‘illegal detention’ widely believed to be for his coverage of the environmental damage caused by the mining industry in El Estor, Izabal province, and of protests held by the Maya Q’echi people. In May 2018, further charges were reportedly brought against him by the wives of employees of the Guatemalan Nickel Company. Jerson Xitumul Morales’ lawyer was critical of the judge’s decision to allow the complaints to be added to the case because, according to the Guatemalan Criminal Procedure, the deadline for bringing forward additional complaints has already passed, according to Front Line Defenders. The judge’s decision constitutes a violation of due process and judicial guarantees.⁸ On 19 July 2018, the charges were dropped on orders of Judge Edgar Aníbal Arteaga and at the request of the Attorney General’s Office, a fact which goes to demonstrate the falsity of the accusations made against Jerson Xitumul Morales.

2. On 20 June 2018, on presenting the National Strategy for Cyber Security, President Jimmy Morales publicly accused the media of fanning fake news.⁹

The newspaper *Prensa Libre*¹⁰ reported that, on this occasion “the president showed attendees the book *Fake News: the truth about false news*, written by Marc Amorós García, and stated that disinformation was the cause of indignation and criticism of the government in relation to the way the tragedy caused by the eruption of the Fuego volcano was handled”. The presidential complaint was based primarily on the fact that the community was advised, by numerous people and through various means of communication, to take relevant precautions long before any rumbles and other signs of movement (auditory or visual) indicating an eruption from the Fuego volcano. The majority of the

⁵ Quote from article by Centro de Medios Independientes (6 July 2013) ‘Familiares de Presos y Perseguidos Políticos Exigen Debido Proceso’ available at: <https://cmiguate.org/familiares-de-presos-y-perseguidos-politicos-exigen-debido-proceso/>

⁶ <https://www.publinews.gt/gt/noticias/2017/11/29/pobladores-jutiapa-jalapa-santa-rosa-piden-la-corte-constitucionalidad-suspenda-proyecto-minero-escobal.html>

⁷ Quote from M4, Mesoamerican Movement against the extractive mining model (*Movimiento Mesoamericano contra el Modelo extractivo Minero*) (9 June 2016) available at: <http://movimientom4.org/2016/06/extorsion-de-empezas-a-comunidades-rurales-en-guatemala-dame-tus-bienes-por-las-buenas-o-por-las-malas/>

⁸ CPJ, <https://cpj.org/2017/11/guatemalan-journalist-imprisoned-after-covering-pr.php>

⁹ See footage: <https://www.youtube.com/watch?v=iLDLfz2CuMs>

¹⁰ 20 June 2018, digital edition: <http://www.prensalibre.com/guatemala/politica/jimmy-morales-guatemala-noticias-falsas-volcan-de-fuego-crisis>

alerts were made through videos that confirmed the clouds of smoke, ash and other by-products of the eruption, which cannot be considered false news, as they were described by the President. In the end, the tragedy claimed the lives of at least 113 people and 332 people disappeared,¹¹ statistics that cannot be considered false news; the statistics were provided, precisely, by the official institution entrusted with managing the situation.

The assembly of delegates of PEN International urges the government of the Republic of Guatemala and President Jimmy Morales to:

1. Refrain from repressing peaceful protests and demonstrators against mining activities and against other activities that they consider detrimental to their populations;
2. Ensure that mining companies, and other companies or groups that conduct extractive or industrial activities that are opposed by local communities, respect the rights of inhabitants, leaders or institutions to freely criticise, condemn or protest against actions that they consider contrary to community interests.
3. Respect the work and physical integrity of journalists and those who inform others about such activities and guarantee their security in the face of threats and intimidation that they may receive from individuals, organisations and private companies.
4. Not to make generalised accusations against the media and Guatemalan citizens of false news as this in itself generates an atmosphere of uncertainty and distrust

¹¹ Official information taken from the National Coordinator for the Reduction of Disasters (*Coordinadora Nacional para la Reducción de Desastres – CONRED*) as of 4 July 2018, online: <https://conred.gob.gt/site/Boletin-Informativo-2072018>