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Title/Style of Cause:	"Radio Ñandutí" station v. Paraguay
Doc. Type:	Resolution
Decided by:	President, Dr. Gilda M.C.M. Russomano; First Vice President, Dr. Marco Tulio Bruni Celli; Second Vice President, Mr. Oliver T. Jackman. Members: Dr. Marco Gerardo Monroy Cabra; Dr. Bruce McColm; Ms. Elsa Kelly; Luis Adolfo Siles Salinas
Dated:	28 March 1987
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BACKGROUND:

1. On July 9, 1983, by order of the Ministry of the Interior, the "Radio Ñandutí" station was ordered shut down for a period of 30 days.
2. On September 22, 1983, its program "SUPERONDA" was taken off the air and the radio director, Mr. Humberto Rubin, was forbidden to take part in his own programs. This measure remained in effect until November 10, 1983. Subsequently, he was also forbidden, beginning on November 5, 1984, to serve as announcer for any other radio programs.
3. On January 17, 1984, Mr. Humberto Rubin was summoned to appear before Mr. Angel Barbosa, Director of the National Telecommunications Bureau (ANTELCO), who warned him not to broadcast news about groups that were not authentic, authorized political parties.
4. As of November 13, 1984, the police began a campaign requiring identification and explanations from all persons wishing to visit the radio station.
5. By order of ANTELCO, in Resolution No 1009 of August 9, 1985, the station was again shut down, this time for a period of 10 days.
6. Mr. Humberto Rubin was again detained on December 3, 1985, and remained in custody for several hours at the Central Police Station in the capital, Asunción, where he was warned by the Director of the Department of Public Order, Carlos Schreirer, that, unless he changed his editorial position, he would be expelled from the country.
7. The station was shut down once more at the beginning of January 1986 for a period of 15 days, accused of having contributed to creating "social dissension".

8. In April 1986, Mr. Humberto Rubin denounced the refusal of the police to provide him with protection following repeated death threats made against him, members of his immediate family and those working at his radio station. Official spokesmen had earlier accused "Radio Ñandutí" of being responsible for the street demonstrations that had occurred in recent weeks in the capital. In the early morning of April 30 a crowd of about 50 government sympathizers stoned the front of the station building, firing weapons into the air and destroying almost all the exterior window glass.

9. On May 3, 1986, another group of about five persons, armed and hooded, attacked the station, this time destroying its plant and broadcasting equipment, some of which was stolen.

10. On May 5, 1986, the station's telephones were cut off, leaving it incommunicado.

11. After that date the station began to experience power failures owing to "radio interference" that gradually became stronger and more frequent until finally more than 90% of its broadcasts were affected. It was also forbidden to broadcast information or comments criticizing the government.

12. It has been alleged that the authorities have also been pressuring a number of merchants in order to force them to withdraw their support by canceling their commercials. For example, at the end of May the official program "The Voice of Coloradism" (broadcast network wide throughout the country from Monday to Saturday) had announced the names of those advertising on Radio Ñandutí, some of whom gave in to this "blackmail" and canceled their contracts.

13. The Director of Radio Ñandutí, Mr. Humberto Rubín, announced publicly on January 14, 1987, the decision to suspend the station's broadcasts because of the lack of guarantees by the Paraguayan authorities whom he accused of not having shown any interest in or willingness to solve the problems denounced. This had brought the company to the verge of bankruptcy, making it financially impossible to continue operations. For that reason, he declared it would cease broadcasts for a period of three months, during which time he was certain that justice would be done and it could enjoy the guarantees needed to renew operations.

WHEREAS:

1. All of the foregoing acts were denounced publicly and through the agencies responsible for protecting human rights, particularly the several competent national administrative and judicial organs.

2. The administrative and judicial authorities, either through inaction or ineffective actions, have in no case been able to identify, much less to punish, those responsible for such attacks and arbitrariness; this has placed the company in a legally defenseless position and bankrupted it, forcing it into temporary closure.

3. Article IV of the American Declaration of the Rights and Duties of Man states that: "Every person has the right to freedom of investigation, of opinion, and of the expression and dissemination of ideas, by any medium whatsoever."

4. American Declaration of the Rights and Duties of Man stipulates in Article XIII that "Every person has the right to take part in the cultural life at the community..." and "has the right to work, under proper conditions, and to follow his vocation freely" (Article XIV), in addition to associating with others "to promote, exercise and protect his legitimate interests of a political, economic, ...professional, labor union or other nature." (Article XXII).

5. Article XXIII of the American Declaration of the Rights and Duties of Man establishes the

guarantee and usufruct of the right to property in the following words: "Every person has a right to own such private property as meets the essential need of decent living and helps to maintain the dignity of the individual and of the home."

6. In the opinion of the IACHR, with regard to freedom of the expression and dissemination of ideas the provisions contained in Article 13 of the American Convention on Human Rights are in any case definitive, maintaining that the right of expression may not be restricted by indirect methods or means, such as the abuse of Government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.

7. In the view of the Commission, freedom of the expression and dissemination of ideas is one of the most solid guarantees of modern democracy; and on that basis it has stipulated that freedom of the expression and dissemination of ideas consists of the right to transmit facts and ideas by any means of social communication; it also entitles every person to acquire information without interference of any kind.

THEREFORE, taking into account the foregoing background and by virtue of the considerations outlined above,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS:
RESOLVES:

1. To declare that in the present case the Government of Paraguay has, by commission or omission, violated particularly Articles IV and XXIII of the American Declaration of the Rights and Duties of Man concerning freedom of the expression and dissemination of ideas and the right to property.

2. To recommend that the Government of Paraguay make an effective and exhaustive investigation of the violations denounced and rigorously apply to those responsible therefor the most severe sanctions established for the purpose under the current penal code,

3. That the Government equitably indemnifies the company and employees of Radio Nandutí for such losses as they may have incurred as a result of the shutdown caused by its bankruptcy owing in turn to the illegal interference occurring recently on an on-going basis and until such time as the station can renew its broadcasts in a normal and unrestricted manner.

4. To communicate this resolution to the Government of Paraguay and request it to report to the Commission, within 60 days, on the measures it has adopted and implemented to fulfill the provisions contained in this resolution.

5. To include publication of this resolution in the IACHR 1986-87 Annual Report to the General Assembly of the Organization of American States (OAS), if, within the 60 days cited above, the Government of Paraguay shall not have carried out the recommendations formulated herein.