The war against the Ecuadorian press

The Ecuadorian press has been under attack, with a political system formed to dominate non-government-favored media, secrecy around the process to select key people in institutions with influence in the formation and application of media laws, and an aggressive propaganda strategy designed to silence any critical voice.
The war against the Ecuadorian press

Preface ......................................................................................................................... 4
The war against the Ecuadorian press ................................................................. 6
THE BEGINNINGS .................................................................................................................. 10
THE OCL ................................................................................................................................ 18
LA SUPERCOM .................................................................................................................... 25
PROPAGANDA STATE ........................................................................................................... 30
References ......................................................................................................................... 34
Preface

What happens to journalists who attempt to follow cash flows and reveal financial secrecy? What punitive measures meet those who do research or publish secret information?

There is an intense hunt for natural resources all over the world. It has become much more dangerous to ask questions connected to authorities’ use of non-renewable resources. Those who follow the cash flows will quickly be exposed to abuse of power from those with economic interests in preventing exposure.

All over the world we are now feeling the obvious backlash against civil society activists and journalists. That also includes OECD countries. 185 activists who worked to protect nature and the environment, and for transparency in the oil, gas, and mining industry, were killed in 2015.

The global statistic on journalists’ safety is disheartening. On average five journalists are killed every day in order to bring information to the public, states UNESCO. Such attacks, which both activists and journalists are exposed to, include everything from restrictive legislation, criminalization of social protest, unwarranted surveillance, harassment, threats, smear campaigns, illegal imprisonment, curtailment of public space for civil society; violence, abductions, and at worst, murder.

But those who exercise power against journalists and the media are often not held responsible. Media must self-censor in order to even exist. This robs society of important information, both about authorities use of natural resources, and about reprisals against those who dare challenge the authorities.

The intensive hunt for natural resources often happens in countries that have functioning institutions, for example they acknowledge indigenous people’s collective rights, and they have an active press.

But the existence of institutions, the acknowledgment of formal rights and the existence of the media gives us little information about how the state exerts its power.

Why are we publishing this report?

This report is a testimony concerning reprisals against journalists and the media can experience at the hands of the state.

For many years PWYP Norway has conducted a building of capacity program for journalists, trade unionists, and organizations. We have cooperated with many more than one hundred people concerning the approaches to problems along the value chain in the extraction of natural resources. We have investigated how multinational companies drain countries for economic interests in preventing exposure.

Those who follow the cash flows will quickly be exposed to abuse of power from those with economic interests in preventing exposure.

In cases like this, it is common practice to cast doubt on the motivation of the journalist. That can succeed in isolating the individual journalist, frighten other journalists from doing the same thing, and thereby protect the existing system. International media has described what happened in Ecuador as “the war against the media”.

Ecuador is not among the poorest nations of the world. The basis for a positive and sustainable development should be present. All the same, large portions of the population live in relative poverty.

Ecuador is rich in natural resources such as oil, gold, copper, and the rain forest in the Amazon. The state believes it has the right to natural resources that exist below the ground. But the rain forest is the home of indigenous and tribal peoples.

Ecuador has ratified the ILO convention 169 concerning indigenous people’s rights and has a constitution which acknowledges indigenous people’s collective rights. Both the national legal framework and the international regulations ought to be sufficient to protect indigenous people against state attacks. But the reality often looks different than the formal regulations would imply.

UN goal: Secure the public access to information

The freedom of the press is threatened in many countries around the world. For that reason UNESCO has developed a plan to increase the safety of journalists. The work against impunity will contribute to fulfill the UN’s sustainability goal 2030.

Sustainability goal 16 asks us to: “Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”. Intermediate objective 10 asks us to “ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements.”

A free and independent media is one of the most important foundations in a living democracy. We hope that this report will be a small contribution.

Mona Thowsen
Secretary General,
PWYP Norway
The war against the Ecuadorian press

On the night of April 16, 2016, Ecuador, a small point on the map of the planet, faced the most intense earthquake of the last 100 years. The friction of the earth’s plates caused a movement of 7.9 points on the Richter scale on the north coast of the country. The earth shook for 56 seconds. The disaster areas were completely isolated, in chaos and terror. During that time, nearly a thousand people lost their lives. In major cities, the entire population rushed to the radio and television for details of the events, but after an hour, there was no news. Social networks began to outline the severity of the events with dozens of photos of bridges, buildings and roads destroyed.

The media was limited to reproducing images from the social networks and waiting for the official version of events, which arrived three hours later. During that time, there was an open, plural and uninhibited flow of information and while the journalists stood guard to report the official version, no media dared to say that the event experienced was an earthquake.

What motivates the media of a country to not call events by their name? Until then the presenters of all the television networks were talking about a strong earthquake, as they already knew of overpasses and bridges that collapsed on vehicles and people. What country in the world media, after evaluating the case, can not call the facts by what they are? Where in the world, where the earth moved for nearly a minute, causing death and destruction, is it not called an earthquake?

The answer is found in places where the press censorship is a reality and is expressed cruelly, in its full extent of chaos and silence, in natural events of this kind.

For April 16, the media and the press had lost their ability to react to disasters or urgent news. The application of a series of restrictive laws—from the informative to the economic—had shortened their capabilities and they were limited by the time to receive official news. In the afternoon of the earthquake, there were no contingency plans in the newsrooms. They could not implement communication systems between cities to tell the world what happened. There were no telephone reports that had the status of residents in destroyed cities such as Portoviejo, Manabi or Pedernales. They could do nothing more because in the newsrooms what is most needed are journalists.

It was a moment that no longer allows the acceptance that the press in Ecuador does not exist; that it was not serving the readers, viewers and radio listeners. The press occupied a space of unknown silence, but was replaced by the action of social networks reporting on events.

The earthquake changed the fate of Ecuador, but the press had already changed by the rigor of a censorious State; the years of struggle to build a strong freedom of the press ended when Rafael Correa and his citizens’ revolution came in 2007. It was then that an unprecedented persecution in the country’s history began. Rafael Correa was not afraid to publicly say that the press and journalists are the spokesmen of a system of representation of the powers throughout the world. They are the instrument of planetary oligarchies. Journalists are passive recipients of orders from their corrupt leaders that impose on their ethics and who are subjected by media companies to tell lies, to be complacent to the orders and censorship.

In Correa’s three years, the television presenters with the greatest credibility were pulled from the screen to avoid problems with their resources; who showed talent, courage and at a critical level were stigmatized and abused by a powerful propaganda system. At this...
time, in 2016, at least three career journalists have sought asylum in the United States and Europe, one of which is persecuted by the law and may be imprisoned. More comprehensive editorial writers and researchers were tried and then expelled from traditional media, now they practice journalism on their own portals but under conditions of economic vulnerability.

Informative portals and in-depth journalism such as PlanV, FocusEcuador, La Historia and milhojas.is do not lack great events to tell about, but their income is low and their journalists at times face extreme economic conditions.

The best portrait of the Ecuadorian press was presented by the writer Roberto Aguilar in mid-2015, in his personal blog called the “State of Propaganda”. Aguilar explained how the Rafael Correa government forced a daily journal to rectify genuine information.

“There was an entire page that contained nothing but lies. One minister asked him (with a kick, insults and humiliations, as usual for his kind), the apparatus of censorship and control of information was prescribed by a formal notification and the President of the Republic celebrated in his Twitter account. This is not all. The State also ordered newspaper El Comercio to publicly apologize for saying the truth: that the cost of the Coca-Codo hydroelectric project had an adjustment of 660.6 million dollars (note from April 5)”.

Aguilar told in detail how the newspaper reporter from El Comercio, Alberto Araujo, wrote his note based on good journalistic practices. He said that all official documents certified that the value of the hydroelectric construction went from US$ 2,245 million to US$ 2,851 million. Despite the evidence, El Comercio was forced to rectify its work. Then came the official version on the pages of the Quito centenary newspaper: “The Coca-Codo project will not have an adjustment of 660.6 million dollars”.

In order to get the apologies from the media, the State used its discretion power, “first letters, from the Electricity Minister, accusing the journalist of lying, manipulating and distorting the facts in bad faith and clear intent to harm and tarnish the great works of the government”. Soon after there was a complaint to the Superintendence of Communication, a body created by law to issue penalties to the media for the content it publishes.

In includes the rectification text “It came designed, illustrated, titled and ready to be assembled on the page”. In it he assured that the cost of the Coca-Codo project was US$ 2,245 million.

“We are in an extreme situation in which the state, with all its power to impose and repress, is delivered to the service of lies such that does not hesitate in making it become compulsory. Such state of affairs raises a number of challenges for those spirits who have decided to remain free despite restrictions and strive to remain faithful to the truth in a world of lies, which for a journalist is a right and a duty”, Aguilar wrote.

“The worst thing in this time of pressure and persecution through which Ecuadorian journalism is passing are not the pressures and persecution themselves, but the fear that they spawn” outlined Aguilar. The ghosts and the frailty of fear. The paranoia. Caution leading to surround oneself with lawyers and laying before them their own expertise. The loss of confidence in the power of truth and in the power of the office itself. The lack of courage. The lukewarmers. The submission to the irrationality and to the shamelessness of power”, concluded the journalist.

The paragraphs have been quoted in full because they resemble an X-ray that is exposed to light, for the analysis of a medical specialist. The result is a press that agonizes every time the state restricts its freedom, but above all dies when a journalist can not express what he believes is false. In this case, the State published a falsehood without that media and its journalists being able to avoid it.

The cases do not relate solely to the actions of the executive branch, but also local governments, such as municipalities, have freely used the new laws that regulate the work of the media. In the same year, 2015, the newspaper La Hora was sanctioned for failing to cover the presentation of a report called accountability, by the mayor of the city of Loja, to the extreme south of the country. The newspaper said in its defense that it performs at least one coverage on policies, actions and works that this council makes weekly, but the Mayor Jose Castillo stated that the media was obliged to cover the event. That newspaper was punished with the payment of US$ 3,000 and decided to plead absentia. The newspaper has maintained a critical position before the Mayor’s administration, but since then it continues to publish all information that is sent from the municipality.

How did it get to this point? It is not just a theme of the press: there is an inventory to be done of the illegitimations to fundamental rights, attacks on freedom of the press, discretionary regulation of content in the media, freedom of association, the impediments to access information, the sequestration of public spaces, illegal detention of citizens for having made gestures to the presidential motorcade or simply exercising their rights as citizens, state surveillance, violation of privacy, cyber attacks and their impact on the right to freedom of expression and opinion.
Since its inauguration in January 15, 2007 until now, the antagonism of President Correa with the independent press, who he has defined as his main enemy, has resulted in the development of a series of tools and mechanisms to undermine the exercise of freedom of the press and freedom of thought and expression.

Fundamedios, an organization formed to promote freedom of expression and good practices in the press constantly performs an exhaustive inventory of the mechanisms and attacks on freedom of expression. Here are some facts that contextualize the Ecuadorian reality:

4 print media, 390 sanctions on private media, of which 290 were driven from the state.

In the first three years in office, from 2007 to 2009, the government used legal mechanisms to silence the press. Then it dusted off the criminal offense of contempt, effective from the time of the dictatorship: “He who with threats, menaces or insults, offends the President of the Republic or the person acting in the executive function, shall be punished with six months to two years in prison and a fine of sixteen to seventy-seven United States dollars.”

This article was not repealed from the penal code because the legislators considered it “unfounded” after the 1998 Constitution went into effect. The first indictment for contempt was given early, May 10, 2007, against the newspaper La Hora (a measure that is to reach 50 sanctions), by an opinion column called “Official Vandalism.” Almost immediately, the President said he would be willing to withdraw that demand if the newspaper apologized. This did not happen, but the case did not proceed and it was archived. Then the President did not control the judiciary operations and the demands were not translated into sentences.

The government, in its desire to reorganize the country, called for a constituent assembly, the result of which was a new deep guarantee-based Constitution, which gave primacy to the instruments on human rights subjects, but also, by contrast, strengthened presidentialism, weakened the action of the legislative function and proposed the creation of new state functions such as the Citizen Participation Council or Fifth Power, emulating the Venezuelan constitution.

The legal status of the right to communicate, suffered the same duality: it raised the mandatory enactment of a Law of Communication and the necessary redistribution of radio and television frequencies across the country. It then ordered a Frequency Audit, which was published on May 18, 2009. Since then, the communities and civil organizations hope for a frequency that will not come in.

In that year the communicator and Shuar leader, Pepe Acacho, was charged with terrorism, taken prisoner and transferred to Quito with handcuffs. Prosecutors accused him of having used several radio stations, including the community radio that he headed, to incite protest against the Mining Law promoted by the government. Protests took place in September 2009 in the city of Macas. They resulted in several wounded members of the Shuar community and 38 policemen, but more importantly, it took the life of Professor Bosco Wisum. Acacho was sentenced to 12 years in prison for the crime of terrorism in August 2013. The defense counsel appealed the decision, asked the courts to apply the new Integral Organic Criminal Code to the case, however in October 2014, an appeals court refused to assess whether Acacho’s actions constituted terrorism and upheld the conviction. Acacho again appealed the conviction and for seven months has waited for the National Court to set a date for the hearing, which should occur in less than a month.
Another claim that was finalized in a legal ruling in this period was that of the President of the National Finance Corporation, Camilo Saman, against the opinion editor of the newspaper El Universo, Emilio Palacio. He was convicted in the first instance, but Saman felt pressured by public opinion and withdrew it in June 2010.

Palace dared to write a column on August 27, 2009 called “Camilo, the bully” after a group of people gathered outside the premises of the newspaper El Universo to insult and try to attack workers at this source. He wrote: “The bigwigs of the PACE Alliance are like its boss: they yell, they insult, but they send out others to bite... So the bully Saman did not go to the facilities of this newspaper to complain yesterday. He sent his bodyguards: Those at the bottom, as for instance women who had no idea what they were doing there. He, as a good bigwig, remained in a safe place, waiting for report by phone...”

Legal proceedings against journalists and the press took a dramatic turn in 2011. The most extreme case was against the authors of the book The Big Brother and the managers of the newspaper El Universo.

On February 2, 2011, Rafael Correa initiated a civil lawsuit against Juan Carlos Calderón and Christian Zurita for publishing the full story, in a 500-page book, on the million-dollar contracts the president’s brother, Fabricio Correa, had with the State. Correa said he was humiliated by the publication. He said the content of the book was tendentious, criminal, and reckless. He said the work contained unauthorized texts that violated intellectual property. One of the phrases that most bothered the president was: “What would have happened if the journalistic investigation had not revealed this business relationship between the contractor’s brother and government officials of the president’s brother? Did Fabricio Correa go accumulating contracts worth millions through related companies and the government pretend not to notice?..."

They were accused of not having exercised prior censorship against Palace’s opinion column and were blamed for what an editorial writer, with his own hand, had written. They demanded payment of US$ 80 million to compensate the moral damage caused to the President of the Republic.

The economic value that the president demanded for lost profits was based on a curious criterion that the president made publicly and was included up almost literally by his lawyer in the judicial process. Correa said that for the calculation of lost profits the General State Budget was to be used as a basis because he was the chief of all powers: Executive, Legislative, Judicial, Electoral and Citizen’s Power.

I cannot avoid expressing the strangeness and discomfort caused by the preceding paragraph, the third world flavor was similar to the pain and persecution of the directors and journalists of the media.

Then Correa went to court as if he were an ordinary citizen and asked “compensation as reparation for moral damages of no less than US$ 5 million from each of the defendants, because of the severity of the damage and willful and malicious intent of abusing me and seriously injuring my dignity.” In the lawsuit, President Correa’s lawyer wrote on his behalf: “Only in the perverse minds full of hatred and wickedness of those who have never won a popular election nor have had the support of the Ecuadorian people can forge these kinds of ideas, thoughts and comments, which do nothing but reiterate that they are stooges of the corrupt oligarchy that does so much damage to our country.”

He supported his public fight in a statement that his own brother made, saying that the president knew of his activities. Given the impossibility of proving the character of moral damages (lost profits and damages) as requested by the attorney for the defendants, in his ruling, the judge said that Correa had suffered spiritual damage, which can only be determined by he who suffers it. Calderón and Zurita were sentenced to pay one million dollars each. The funny thing is that before the decision was communicated to their lawyer, the day before, one of the channels controlled by the government had already made it known.

On March 29, 2011, Rafael Correa sued, as a private citizen, the Diario El Universo under the character of serious slanderous insult, which was another way of presenting the character of contempt, through an article written by Emilio Palacio entitled “No to lies!” The directors of the newspaper, Carlos and César Pérez Barriga, were included in the claim due to an offense that at the time was non-existent in the Ecuadorian Criminal Code: contributory authorship.

The directors were sentenced to pay one million dollars each. The funny thing is that before the decision was communicated to their lawyer, the day before, one of the channels controlled by the government had already made it known.

The trial judges accepted the argument by the President’s defense and determined the payment of US$ 40 million to the President, a prison sentence of three years and an apology to Rafael Correa. The other courts, including the National Court, upheld the conviction in just one year. At the day of the hearing in the Supreme Court, government supporters concentrated in judicial headquarters and burned hundreds of editions of the newspaper.

The case showed irregularities in the judicial process, the strongest of which was the technical expertise required by the defendants, who found that the voluminous first instance judgment, which was delivered in a few hours, had not been made on the judge’s computer but was delivered on a flash drive.
International public opinion did not stop being published every newspaper on the continent issued criteria for the decision under the same concept that was well exemplified by Claudio Paolillo, who then served as co-chairman of the Committee on Freedom of Press of the Inter American Press Association. On July 27, 2011 he wrote an article called “The time of the predator.” “The brutal sentence Correa got from an addict judge against the owners and a columnist for the newspaper El Universo ... is finally the fierce face of despotic power exercised by a representative who believes he is God.”

Faced with the helplessness in the Ecuadorian legal system, Calderon, Zurita and managers of El Universo took their cases to the Inter-American Commission on Human Rights. On February 21, 2012 the Inter-American Commission on Human Rights granted precautionary measures to the defendants of the El Universo. The Commission’s position cost them an open confrontation with the Ecuadorian state, who made their work impossible by limiting their reach throughout the continent. Since then, Correa has presented two projects to put an end to the commissions’ work and created a Special Rapporteur for the Freedom of Expression.

The government then went from the celebration of the judgments in their favor to finding a solution to comply with the ruling by the Commission. Correa then reluctantly decided to pardon those accused in the El Universo and Big Brother cases. International pressure from organizations like CPI Community to Protect Journalist, The World Association of Newspapers and News Publishers (WAN-IFRA) and the World Editors Forum; Human Rights Watch, Reporters Without Borders and the Special Rapporteur for Freedom of Expression of the Organization of American States and several international newspapers. The event that largely weighed on the decision was the publication of a “Manifesto for Freedom of Expression” signed by 120 notorious intellectuals in Latin America. In it, they rejected the persecution of the journalists accused in the Big Brother and El Universo case. Two days later, Correa delivered his “forgiveness without forgetting” speech.

The Ecuadorian government spent huge sums on propaganda against the Commission and promoted a policy of attacking its Rapporteur, Catalina Botero, through all possible means. A leak of documents from advertising companies in Ecuador was filed by two Ecuadorian journalists. His brother, Fernando Alvarado, was responsible for implementing the communication strategies for the state. Secom, in turn was driven from the beginning of the government by Vinicio Alvarado Espinel, a publicist who created a business empire based on the development of communication products for the state.

The application of this law was set in an instruction that turned into a tower of babel since the prohibition of shares and stocks not only affected the managers and owners of the media, but also their relatives up to the second degree of family relationships and fourth of blood. A father-in-law who had an investment was enough to put the media owner at risk. When the application of the law was adjusted, businessmen and bankers sold their media and media people had to sell their holdings and shares in other areas of the economy to avoid being punished.

In 2016, the impacts of this measure are already measurable: it has placed the private media in a restrictive situation manifested in conditions of economic hardship. Investing in a radio by an entrepreneur who is not in the sector would mean giving up everything else. Today it is difficult to get funding sources for any media that needs investment.

The above provision resulted in the “Organic Law for Regulation and Control of the Market”, called the Anti-Monopoly Law, made official in May 2012. In it, it was ordered “that until July 2012, the shareholders and directors who have more than 6% stake in the “national” media should dispose of shares or stocks in any other type of company.”

In 2012, the shareholders and directors who have more than 6% stake in the “national” media should dispose of shares or stocks in any other type of company. The application of this law was set in an instruction that turned into a tower of babel since the prohibition of shares and stocks not only affected the managers and owners of the media, but also their relatives up to the second degree of family relationships and fourth of blood. A father-in-law who had an investment was enough to put the media owner at risk. When the application of the law was adjusted, businessmen and bankers sold their media and media people had to sell their holdings and shares in other areas of the economy to avoid being punished.

The government then went from the celebration of the judgments in their favor to finding a solution to comply with the ruling by the Commission. Correa then reluctantly decided to pardon those accused in the El Universo and Big Brother cases. International pressure from organizations like CPI Community to Protect Journalist, The World Association of Newspapers and News Publishers (WAN-IFRA) and the World Editors Forum; Human Rights Watch, Reporters Without Borders and the Special Rapporteur for Freedom of Expression of the Organization of American States and several international newspapers. The event that largely weighed on the decision was the publication of a “Manifesto for Freedom of Expression” signed by 120 notorious intellectuals in Latin America. In it, they rejected the persecution of the journalists accused in the Big Brother and El Universo case. Two days later, Correa delivered his “forgiveness without forgetting” speech.

The application of this law was set in an instruction that turned into a tower of babel since the prohibition of shares and stocks not only affected the managers and owners of the media, but also their relatives up to the second degree of family relationships and fourth of blood. A father-in-law who had an investment was enough to put the media owner at risk. When the application of the law was adjusted, businessmen and bankers sold their media and media people had to sell their holdings and shares in other areas of the economy to avoid being punished.

The Ecuadorian government spent huge sums on propaganda against the Commission and promoted a policy of attacking its Rapporteur, Catalina Botero, through all possible means. A leak of documents from advertising companies in Ecuador was filed by two Ecuadorian journalists. His brother, Fernando Alvarado, was responsible for implementing the communication strategies for the state. Secom, in turn was driven from the beginning of the government by Vinicio Alvarado Espinel, a publicist who created a business empire based on the development of communication products for the state.

His brother, Fernando Alvarado, was responsible for implementing the communication policies of the government. His position was fully exposed in an interview conducted by Venezuelan journalist Boris Muñoz for the magazine Gatopardo: the conclusion reached the
president was that the media did not defend communication per se, but rather its business and influence. They were, he said, like “a weed that had to be cleared.” He continued “I told the president that the weed is always there, and always would be, and that consequently he only had two choices: give them space and negotiate with them, which meant letting the weeds grow, pruning them only occasionally[]. The other way was to get them off the court.”

The referendum also sought co-opting of the judicial system. The proposed changes were relevant for the others: the first was to replace the Plenary Council of the Judicature by a Transitional Council of the Judicature, appointed by three state positions (all controlled by the President). This Transitional Council would last 18 months and should undertake to reform the judicial role.

The reform introduced a new selection mechanism for the final Judicature Council. Instead of open competitions, a mechanism of triads for the roles of the State was implemented, elected by the Council for Citizen Participation, which is controlled by the executive branch. They controlled the judiciary in the following manner: “the governing body, administration, supervision and discipline of the Judicial Role found in the National Court, provincial courts and tribunals.” Correa himself had already announced his intent to “get his hands” on the judicial role.

A few days after the publication of the results of the consultation, candidates for the Judicial Transitional Council were announced. The media commented on the closeness of the regime of candidates to the voices of that Council. On August 3, 2011 they were given their appointment.

The work of the Transitional Council was to build a judiciary power compliant to the President. He named the definitive integration to the National Court of Justice, composed of 21 judges able to hold office for nine years, plus the hundreds of judges from the provincial courts and first instance.

In that scenario, anyone who was sued by the State or by the President “privately”, did not have high expectations of a favorable ruling. Locally, minor officials used to pursue justice for “crimes of opinion.”

The atmosphere was conducive to censor any event, even publishing a book. Monica Almeida, investigative journalist from El Universo clearly outlined of the most unthinkable deeds in the inventory of censures. “Some officials who want to look good even intend to anticipate the wishes of the president and show their loyalty unconditionally with not always happy initiatives. It could be what happened with the censorship of the book by Miguel Cabodevilla and Miagros Aguirre that told a slaughter among indigenous communities in the Ecuadorian Amazon and the wrong actions of the ministers of State and the Prosecutors. The ban on the circulation of ‘A hidden tragedy’ was due to the request by an employee of the Ombudsman on the grounds of ‘child protection’. The pretext was that an invitation to the presentation of the book, sent by email, included a photo of an Indian child for which the employee asked the judge to stop the circulation of the book, a request that was accepted in a few hours.
**THE OCL**

On June 25, 2013, the Organic Communications Law came into force and with it alerts to the Inter-American Human Rights System (ISHR) soared. This also occurred in regional organizations defending freedom of the press and the Inter American Press Association, which brings together owners of print media on the continent.

The law passed included items that were never discussed and thus broke the constitutionality of that body. They introduced strongly restrictive figures like the “media lynching” that was defined as the dissemination of information directly or through third parties be produced in a concerted fashion and published repetitively through one or more types of media for the purpose of discrediting a person or reducing their credibility.

The special rapporteur for freedom of expression of the United Nations openly stated that it was an ironic way to limit freedom of expression. The law became the tool of control that the regime craved. With this, they created two controlling bodies to apply the law: The Superintendency of Communication (Supercom) and the Council Regulation and Development of Information and Communication (Cordicom).

In the words of Carlos Lauría, from the Committee to Protect Journalists (CPJ), “The new standard establishes the regulation of editorial content and gives the authorities the power to impose arbitrary sanctions and censor the press... The restrictive provisions and ambiguous language contradict constitutional guarantees and international standards on freedom of expression; (the law) threatens the right of citizens to be informed about “sensitive issues.”

They approved the Law of the media companies, under the auspices of the Association of Newspaper Publishers (AEDEP). They were supported by several human rights organizations and asked for an expert to conduct a detailed study of that legal body. So they came to Professor Carlos J. Zelada, a Peruvian lawyer educated at Harvard Law School and researcher at the Center for Studies on Freedom of Expression and Access to Information (CELE), from the University of Palermo, Argentina, who between 2004 and 2010 worked in the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights, in Washington D.C.

This expert studied the law protected by legal inputs by the ISHR and the result was a report called “Questioning the Organic Communications Law (OCL). A law incompatible with the American Convention on Human Rights,” which is the proper space to reproduce part of its criteria and present them to the world.

Zelada began his work with these words: “The legitimate powers possessed by the Ecuadorian State to adopt a legislative regulatory framework for the media is limited to the obligation to respect and guarantee the right to freedom of expression. Each regulation should be contrasted with the conditions required to support its validity. The first rule that must meet both regulations and restrictions to be legitimate, according to the American Convention, is to be compatible with the democratic principle or, in other words, “incorporate the just demands of a democratic society”.

But that is precisely what is missing from the OCL. “One of the most striking aspects is the significant number of obligations imposed on the Ecuadorian media, without further distinction in its size, format, circulation capacity or level of specialization. In short, little escapes the scope: the utopian intention of the State to control everything even though it has no real ability to implement effective monitoring mechanisms... the obligations imposed on Ecuadorian media are the most varied: the format, in the content, the prohibition of omitting or not publish information that the authorities consider to be of public interest, the duty to make critical judgments, when certain legal rights are affected and the mandate of only presenting information “verified, proven, precise and contextualized”, or opinions that will not offend the honor of individuals or groups. An example is in Article 71 that states that “social communication that is done through the media is a public service that should be provided with responsibility and quality, respecting the rights of communication established in the Constitution, the international agreements and contributes to the good life of the people.”

This, which in appearance suggests a general, equal and even democratic application of the rule for all media in the country, locks in the background the possibility that the control mechanisms set forth therein can be used inappropriately to restrict the right to freedom of expression of those who question or criticize the powers of the State.

This legal analysis can be seen in the context of the 113 penalties handed down by Supercom, for the commission of violations to the Organic Communications Law. **TYPES OF SANCTIONS IMPOSED**

<table>
<thead>
<tr>
<th>PENALTY DESCRIPTION</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>WRITTEN WARNING (art. 10)</td>
<td>40</td>
</tr>
<tr>
<td>CORRECTION AND PUBLIC APOLOGY (art. 23)</td>
<td>10</td>
</tr>
<tr>
<td>PUBLIC APOLOGY FOR THE RELEASE OF DISCRIMINATORY CONTENTS (art. 64)</td>
<td>6</td>
</tr>
<tr>
<td>PUBLIC APOLOGY AND FINE FOR REPEATED INFRINGEMENT OF DISCRIMINATORY CONTENTS (art. 64, paragraph 3)</td>
<td>1</td>
</tr>
<tr>
<td>PUBLIC APOLOGY FOR LACK OF EQUITY IN THE PUBLICITY FOR JUDICIAL CASES (art. 23)</td>
<td>1</td>
</tr>
<tr>
<td>FINE FOR NOT DELIVERING COPIES OF RECORDINGS OR PRINTED COPIES (art. 28)</td>
<td>31</td>
</tr>
<tr>
<td>FINE FOR NOT PUBLISHING RETRACTIONS (art. 90)</td>
<td>8</td>
</tr>
<tr>
<td>REPRODUCTION AND PUBLIC APOLOGY (art. 24)</td>
<td>1</td>
</tr>
<tr>
<td>FINES INCURRED BY PRIOR CENSORSHIP (art. 18)</td>
<td>1</td>
</tr>
<tr>
<td>FINE FOR REPEATEDLY NOT PUBLISHING CORRECTIONS (art. 23, paragraph 3)</td>
<td>2</td>
</tr>
<tr>
<td>FINE FOR TAKING AN INSTITUTIONAL POSITION (art. 23)</td>
<td>2</td>
</tr>
<tr>
<td>CORRECTION AND FINE FOR TAKING AN INSTITUTIONAL POSITION</td>
<td>1</td>
</tr>
<tr>
<td>FINE FOR VIOLATION OF ART. 30, PARAGRAPH 4</td>
<td>7</td>
</tr>
<tr>
<td>DEFINITIVE SUSPENSION OF PUBLICITY ARTICLE NO. 94</td>
<td>2</td>
</tr>
<tr>
<td>TOTAL</td>
<td>113</td>
</tr>
</tbody>
</table>
Dr. Zelada said, “The Commission has considered that "the problematic outcome is the 
establishment of a regime of obligations or a single punitive administrative regime covering 
all media without making relevant differentiations." The Commission, a supranational body, 
said that "any regulation of the media must very carefully attend to the nature of each 
medium to avoid making unnecessary or disproportionate restrictions of the right to 
freedom of expression" (Letter from the Special Rapporteur for freedom of Expression 
of the Commission to the Minister of Foreign Affairs, Trade and Integration of the Republic of 
Ecuador (2013)).

It referred to the fact that it is not appropriate to similarly refer to open broadcasting and 
cable broadcasting, the written press or the media that occur in on the Internet. "When we 
talk about media, unjustified imposition of a frame without differences in treatment could 
lead to the violation of a series of standards regarding the right to freedom of expression. 
It should not be forgotten that, for the Inter American Court, the conditions that States 
provide for the operation of the media must conform to the requirements of the right to 
freedom of expression (SHR Court). Compulsory Licensing of Journalists. Advisory Opinion 
OC 5/85 (1985), para 34)"

This means that Ecuador, in this legal framework, should fulfill the obligation to respect and 
guarantee the right to freedom of expression. It does not do so. "Since these rules have the 
potential to restrict this right, automatically each regulation must be contrasted with the 
conditions required in this case, by the ISHR, to support its validity."

If it is a law with deep egalitarian framework and a broad range of obligations, why is 
there a need then to have such a broad reach? Zelada said. It seems that the conception 
of a regulatory framework on this scale had no other purpose than to "harass" and even 
lead to self-censorship, even if it is little", to whom could eventually an inconvenience 
to the current authorities. There is thus a risk of only receiving information that does 
not inconvenience those who are responsible for monitoring the obligations and impose 
sanctions set forth by the OCL. As is known, self-censorship is a serious obstacle to the full 
exercise of freedom of expression that silences the work of the media in order to prevent 
society from knowing certain pieces of information.

Ironically, Zelada said, is that the OCL itself that said in Article 10 that the practice of 
journalism must be done without censorship or external pressures. To illustrate this, he 
turned to documents from the Inter-American Court of Human Rights, since it has been 
clear in emphasizing that if regulations are established, as they may imply a limitation on 
the exercise of the right to freedom of expression, "they must be established in advance 
and expressly, exhaustively, precisely and clearly in a law, both formally and materially."

This means that the regulations for broadcasting and other media should meet a number of 
requirements to be compatible with the parameters imposed by the right enshrined in 
Article 13 of the American Convention. These are conditions that the lawmakers and the 
President of the Republic overlooked.

Already at that time, in 2013, Zelada insisted that a strict regime of inability, incompatibility 
and conflict of interest should be established to ensure the independence of both the 
government and other sectors linked to the media. "It is necessary to clarify that it should 
be autonomous officials who are only subject to the rule of law and the Constitution. In 
addition, it is convenient to set fixed terms for the length of terms that do not match the 
length of terms of the term of office for those who participate in their nomination and that 
include partial renewals of its staggered members."

This criteria then seemed to reveal the possible corruption that could unleash it. In fact, on 
November 11, 2016, the Attorney General’s Office made the case of a former assemblyman 
who gave US$ 65,000 to an official of the Council for the Regulation and Control of 
Communication (Cordicom), Marcos Parraga, who also served as adviser to Vice President 
of Ecuador, Jorge Glas, public. The news on the subject assured that Parraga would request 
US$ 920,000 to allocate a radio frequency. Cordicom is a controlling authority of media 
content that has been managed by people close to the highest government authorities.

You can be ensured that the spirit of the OCL is the sanctioning power of the state. When 
sanctions are imposed, a fundamental right can be restricted. Documents from the 
Commission explained that "it is essential for the legal framework to provide legal certainty 
to citizens and determine, in the clearest and precise possible terms, the conditions of 
their exercise and limitations to which the exercise of the right to freedom of expression 
it is subject" (Letter from the Special Rapporteur for freedom of expression of the IACHR 
to the Ministry of Foreign Affairs, Trade and Integration of the Republic of Ecuador (2013)). 
Therefore, he insisted that if by limiting the right to freedom of expression, through a 
regulatory framework like the OCL, the explicit conditions for restriction must be clear and 
precise, avoiding ambiguous or vague wordings that could lead to arbitrary interpretations 
that do nothing but generate an absurdity.

For example, take the case of the article referred to as ‘media lynching’, said Zelada, under 
Articles 10.4 and 26 of the OCL that prohibit "the dissemination of information, directly and 
through third parties, if it is produced in concert and published repetitively through one 
or more media sources for the purpose of discrediting a natural or legal person or reduce 
its public credibility". Beforehand, one might ask, "Would allegations of corruption against 
a state official repeatedly submitted by a news organization fit in this picture? According to 
the text of this standard, the important thing is the end result: the loss of credibility of 
the reported official. The newspaper report of a matter of public interest -expression 
quintessential to the legitimate right to freedom of expression- could then be sanctioned 
by characterizing a ‘media lynching'."
The war against the Ecuadorian press

A final example is found in Article 22 of the OCL: "All people have the right to information of public importance that they receive through the media if it is verified, proven, accurate and contextualized. Although article 22 itself details what should be understood as verification, contrast, precision and contextualization, each definition provides an ample margin for arbitrariness by the administrative entity that imposes sanctions. Thus, in the case of the contrast (so-called "contrasting"), the standard requires that versions from the people involved in the events be collected and published in a "balanced way". What exactly is the dissemination of news in a "balanced way"? Interestingly, the task of determining when the lack of contrast figures in once again lies with the Superintendency of Information and Communication, the entity whose principal officer is virtually chosen by the President of the Republic.

The right to freedom of expression is linked to something else: access to information and truth, especially regarding human rights violations. Access to information feeds the ability to exercise one’s rights to freedom. Without access to information one cannot fight against the violation of rights or corruption says the UN Convention against Corruption in Article 10. Considering the need to combat corruption, each State Party, in accordance with the fundamental principles of its domestic law, takes the measures that may be necessary to enhance transparency in its public administration, including with regard to its organization, operation and decision-making processes, as appropriate.

Access to public information and accountability is a device of a healthy democracy. The recognition of Ecuadorian society came in the first decade of this century with the issuance of the Organic Law of Transparency and Access to Public Information (LOTAIP). Its application passed through a slow democratic process of empowerment and several media demanded that the State institutions provide public information and in turn started a healthy state, but a parsimonious process of accountability, the results were always disappointing, but there was the expectation of favorable responses.

Another example of the dangers involved in the imprecision of the definitions can be found in the obligation for coverage and dissemination of matters of public interest imposed by the OCL. Article 18 of the text states: "the deliberate and recurrent failure to disseminate issues of public interest constitutes an act of censorship" that can be punished "with a fine of 10 unified basic wages, without prejudice to the author of Acts [...] being judicially accountable for the commission of the crimes and/or damage and for their full reparation.”

Who has been commissioned to impose these sanctions? For Supercom, the administrative body that suffers a lack of independence. "What parameters has the OCL set to determine that there has been a "deliberate omission" in broadcasting issues of public interest? When does the omission become "recurring"?

There are cases of sanctions on the media through the use of this standard. The citizen, Carlos Vera Quintana, a personal friend of the secretary of communications, filed a complaint of that kind against several print media because he said that they did not provide information about an event in which President Rafael Correa participated in a university in Chile.

A final example is found in Article 22 of the OCL. "All people have the right to information of public importance that they receive through the media if it is verified, proven, accurate and contextualized. Although article 22 itself details what should be understood as verification, contrast, precision and contextualization, each definition provides an ample margin for arbitrariness by the administrative entity that imposes sanctions. Thus, in the case of the contrast (so-called “contrasting”), the standard requires that versions from the people involved in the events be collected and published in a “balanced way.” What exactly is the dissemination of news in a “balanced way”? Interestingly, the task of determining when the lack of contrast figures in once again lies with the Superintendency of Information and Communication, the entity whose principal officer is virtually chosen by the President of the Republic.

The right to freedom of expression is linked to something else: access to information and truth, especially regarding human rights violations. Access to information feeds the ability to exercise one’s rights to freedom. Without access to information one cannot fight against the violation of rights or corruption says the UN Convention against Corruption in Article 10. Considering the need to combat corruption, each State Party, in accordance with the fundamental principles of its domestic law, takes the measures that may be necessary to enhance transparency in its public administration, including with regard to its organization, operation and decision-making processes, as appropriate.

Access to public information and accountability is a device of a healthy democracy. The recognition of Ecuadorian society came in the first decade of this century with the issuance of the Organic Law of Transparency and Access to Public Information (LOTAIP). Its application passed through a slow democratic process of empowerment and several media demanded that the State institutions provide public information and in turn started a healthy state, but a parsimonious process of accountability, the results were always disappointing, but there was the expectation of favorable responses.

Another example of the dangers involved in the imprecision of the definitions can be found in the obligation for coverage and dissemination of matters of public interest imposed by the OCL. Article 18 of the text states: “the deliberate and recurrent failure to disseminate issues of public interest constitutes an act of censorship” that can be punished “with a fine of 10 unified basic wages, without prejudice to the author of Acts [...] being judicially accountable for the commission of the crimes and/or damage and for their full reparation.”

Who has been commissioned to impose these sanctions? For Supercom, the administrative body that suffers a lack of independence. “What parameters has the OCL set to determine that there has been a “deliberate omission” in broadcasting issues of public interest? When does the omission become “recurring”?

There are cases of sanctions on the media through the use of this standard. The citizen, Carlos Vera Quintana, a personal friend of the secretary of communications, filed a complaint of that kind against several print media because he said that they did not provide information about an event in which President Rafael Correa participated in a university in Chile.

A final example is found in Article 22 of the OCL. “All people have the right to information of public importance that they receive through the media if it is verified, proven, accurate and contextualized. Although article 22 itself details what should be understood as verification, contrast, precision and contextualization, each definition provides an ample margin for arbitrariness by the administrative entity that imposes sanctions. Thus, in the case of the contrast (so-called “contrasting”), the standard requires that versions from the people involved in the events be collected and published in a “balanced way.” What exactly is the dissemination of news in a “balanced way”? Interestingly, the task of determining when the lack of contrast figures in once again lies with the Superintendency of Information and Communication, the entity whose principal officer is virtually chosen by the President of the Republic.

The right to freedom of expression is linked to something else: access to information and truth, especially regarding human rights violations. Access to information feeds the ability to exercise one’s rights to freedom. Without access to information one cannot fight against the violation of rights or corruption says the UN Convention against Corruption in Article 10. Considering the need to combat corruption, each State Party, in accordance with the fundamental principles of its domestic law, takes the measures that may be necessary to enhance transparency in its public administration, including with regard to its organization, operation and decision-making processes, as appropriate.

Access to public information and accountability is a device of a healthy democracy. The recognition of Ecuadorian society came in the first decade of this century with the issuance of the Organic Law of Transparency and Access to Public Information (LOTAIP). Its application passed through a slow democratic process of empowerment and several media demanded that the State institutions provide public information and in turn started a healthy state, but a parsimonious process of accountability, the results were always disappointing, but there was the expectation of favorable responses.

Another example of the dangers involved in the imprecision of the definitions can be found in the obligation for coverage and dissemination of matters of public interest imposed by the OCL. Article 18 of the text states: “the deliberate and recurrent failure to disseminate issues of public interest constitutes an act of censorship” that can be punished “with a fine of 10 unified basic wages, without prejudice to the author of Acts [...] being judicially accountable for the commission of the crimes and/or damage and for their full reparation.”

Who has been commissioned to impose these sanctions? For Supercom, the administrative body that suffers a lack of independence. “What parameters has the OCL set to determine that there has been a “deliberate omission” in broadcasting issues of public interest? When does the omission become “recurring”?

There are cases of sanctions on the media through the use of this standard. The citizen, Carlos Vera Quintana, a personal friend of the secretary of communications, filed a complaint of that kind against several print media because he said that they did not provide information about an event in which President Rafael Correa participated in a university in Chile.

A final example is found in Article 22 of the OCL. “All people have the right to information of public importance that they receive through the media if it is verified, proven, accurate and contextualized. Although article 22 itself details what should be understood as verification, contrast, precision and contextualization, each definition provides an ample margin for arbitrariness by the administrative entity that imposes sanctions. Thus, in the case of the contrast (so-called “contrasting”), the standard requires that versions from the people involved in the events be collected and published in a “balanced way.” What exactly is the dissemination of news in a “balanced way”? Interestingly, the task of determining when the lack of contrast figures in once again lies with the Superintendency of Information and Communication, the entity whose principal officer is virtually chosen by the President of the Republic.

The right to freedom of expression is linked to something else: access to information and truth, especially regarding human rights violations. Access to information feeds the ability to exercise one’s rights to freedom. Without access to information one cannot fight against the violation of rights or corruption says the UN Convention against Corruption in Article 10. Considering the need to combat corruption, each State Party, in accordance with the fundamental principles of its domestic law, takes the measures that may be necessary to enhance transparency in its public administration, including with regard to its organization, operation and decision-making processes, as appropriate.

Access to public information and accountability is a device of a healthy democracy. The recognition of Ecuadorian society came in the first decade of this century with the issuance of the Organic Law of Transparency and Access to Public Information (LOTAIP). Its application passed through a slow democratic process of empowerment and several media demanded that the State institutions provide public information and in turn started a healthy state, but a parsimonious process of accountability, the results were always disappointing, but there was the expectation of favorable responses.
SUPERCOM

Criticism of the existence of Supercom focused on the fact that there are no safeguards intended to ensure its functional and organizational independence. The reason is that the filter for the election of the manager of this entity was always in the hands of the president. Dr. Zelada is not wrong to understand that the most visible problem of Supercom lies in the interference by the executive branch.

Article 55 of the OCL stated that the Superintendency of Information and Communication is "the technical body for supervising, auditing, intervention and control, with the ability to impose penalties that have decentralized administration." In other words, this body is the administrative agency responsible for overseeing compliance with the OCL and imposing sanctions on the media.

Regarding the supervisory bodies of journalism, the Commission stated that the guarantee of pluralism is particularly important when it comes to the bodies in charge of supervision and implementation of the sanctioning authority of the state over the media. Zelada said these organisms require a significant degree of impartiality, autonomy, and independence to ensure that it will not unduly restrict the right to freedom of expression.

But in the case of Ecuador, it is not a collective body composed of plural thoughts. Its procedures are unclear and there has been little transparency in its actions. The Ecuadorian case is far from the standards of freedom of expression.

In conclusion, Supercom, to which they gave relevant powers that were contrary to the right to freedom of expression of the Ecuadorian authorities, operates with serious gaps.

On October 8, 2013, the government, through the Citizen Participation Council, appointed a journalist, Carlos Ochoa, who was adept to the ideas of the president, to play the role of superintendent. Ochoa had experience in the area of television since the early part of the government and remained near the Politburo of the ruling party. In fact, he maintained a personal relationship with Doris Soliz, who was the minister of political and social inclusion.

Ochoa was enlisted as a presenter of the news star Gama TV, a channel seized by the government of the Isaías family, former owner of a bankrupt bank at the beginning of this century. "Corrupt, miserable, soothsayers of the disaster aimed at destabilizing the regime" were the phrases that Ochoa copied from President Correa while the Gama TV was referring to the independent press. It was that attitude that catapulted him as first Superintendent of Communication.

With him came the fines, warnings, rectifications of published information, demands for apologies and discretionary use of the law. Let’s review some statistics regarding the action of Supercom in recent years. The report, 'Accountability 2014,' from this entity notes that "only by content considered as discriminatory, 135 cases were recorded: 71 on television, 17 on the radio and 47 in print media." In total, this entity handled 258 cases.

In 2015, the sanctions continued to rise. The accountability report for that year recorded 438 processes. In June 2016, Carlos Ochoa, in a press conference said, "We had 896 processes throughout the time the Communications Act was in effect."
In economic terms, it means a blow to the media. “The penalties provided are geometric progressive fines, which can reach up to 10% of the monthly billing.” So far, the revenue from that entity exceeds US$ 600,000.

We exemplify some cases taken from the website lamordazaec.com, a blog created by Fundamedios that records all sanctions by the Superintendency of Communication. The cases can provide a better understanding of the situation of the press:

- On June 1, 2016, the newspaper El Mercurio in the city of Cuenca, was sanctioned with the obligation to publish a correction and make a public apology twice. Affected citizens said that their honor was sullied because the headline “They say they are not affiliated with the País Alliance movement” did not conform to the request for rectification.

- July 20, 2016: To broadcast a bullfighting program, the station will pay 10% of its average turnover for the last three months. Supercom concluded that Radio Quito did not disclose the minimum percentage of intercultural content in their programming on April 28, 2016.

- July 21, 2016: “Newscast with much publicity was fined” FM Radio Center in the city of Ambato paid US$ 3,660 for exceeding the limit of 15 minutes of advertising. According to Supercom, the media violated Article 68 of the General Regulations of the OCL.

- July 27, 2016: “Local newspaper punished with 10% of turnover for not publishing ‘intercultural content’” The newspaper El Despertar Informativo “Su Revista” of the coastal town of Milagro, must cancel the equivalent of 10% of the averaged turnover of the last three months for lack of intercultural content. The resolution stated that the media breached Article 36 of the Communication Law (OCL), which refers to the right to intercultural and plurinational communication on the grounds that “the source, in none of their pages published information that falls within any of the technical parameters in the regulation.

- July 27, 2016: The newspaper El Mercurio of Cuenca was sanctioned this July 22nd with the obligation to publish a correction and make a public apology twice. The Coordination of Information and Communication Area 6 issued the administrative measure because the newspaper titled a request for rectification by citizens Alexandra Toledo and Manuel Gómez Jara who denounced the media source due to feeling it affected their honor.

- July 28, 2016: “Journalists processed for media lynching and accused of the crime of giving an opinion.” The journalist Janeth Henostroza, host of the interview program “24-hour Breakfasts” on Telemazonas, faces a charge of “media lynching” by the National Public Procurement and has been the target of harassment such as the broadcasting networks (official television spots) against him. This is due to the criticism that has made a corporate reverse auction of drugs; the task of that entity, a process followed by the media with interviews and journalistic research and has shown doubts about these medicines.” The complaint is based on Article 26 of the OCL on media lynching, which refers to the prohibition of disseminating information produced concertedly and published repetitively by a media source.

- July 28, 2016: “Newspaper is forced to rectify because the headline with the word ‘Afro’ is considered an offense” The newspaper La Hora de Tunagurahua should publicly apologize to the Afro-Ecuadorian people and publish a rectification after

- August 8, 2016: “In the span of a week, three district radios are fined for not classifying their contents, under Article 60” The Communication Law, with its regulations, created efficient mechanisms of media and press control through simple administrative means. The processes always have the institution as judge and plaintiff and the prosecution space does not disappear but rather was relegated to a secondary position.

To apply it, the government made a huge promotional campaign supported by national artists and the offer to redistribute frequencies to community radios. Under that umbrella, dozens of organizations that supported Correa’s project came together. Those who believed in the redistribution of frequencies from some criterion of equity were disappointed. To date, the practice of the National Council of Telecommunications, CONATEL, is to assign radio frequencies called community to groups related to the government decided by the National Secretary of Policy Management. This does not say anything about the Regulation of the Law nor does it clarify the requirements to apply for a frequency.

The other big issue was money. By what is known, the budget allocation for the censorious work in 2014 it was US$ 18,633,163.66. With these resources, all media sources were classified.

One of the most egregious cases was the sanction on the cartoonist Xavier Bonilla, BONIL, and the newspaper El Universo. On February 3, 2014, he was charged with defamation and given 72 hours to rectify one of his cartoons. The order came from Supercom and with it, a monetary fine to the newspaper El Universo of 2% of its turnover in the last three months.

The cartoon by Bonil, published in El Universo on December 28, 2013, denounced the abusive and violent raid by police at the home of a journalist and adviser to then Assemblyman, Cléver Jimenez, that focused his work on the audit of the oil sector. Villavicencio must be the character who has most overseen corruption in the oil sector since his research blog called Focusecuador.com. Today, he is the most persecuted man in Ecuador and sought by police to imprison him.
Villavicencio’s house was seized at night by the elite police unit, causing panic in his children and his wife. The government media El Ciudadano wrote on December 30 that: “several media sources misinformed the community, to make them believe that this legal action was violent and an attempt against the rights of Villavicencio. This news violated the Communications Law ordering the media disseminate truthful, verified and proven information. Upon arriving at Villavicencio’s home, the prosecutor investigating the case knocked on the door and asked him to please open the door... it is not true that the entry was violent.”

Bonil presented a cartoon portraying violent moments Villavicencio and his family experienced. As the foot of his sketch, he wrote the following legend: “Police and Prosecutor raided Fernando Villavicencio’s home and took documentation of allegations of corruption.”

The touch of humor did not make the president of the Republic laugh. It was not necessary to ask for sanctions because the authorities moved to the sound of his words and claims. The correction was published on February 5th in El Universo and in it, Bonil told with complete irony of the “friendly face” of the police and the good treatment the journalist received when they entered his home and took prosecution of his documents.

“How can you rectify a cartoon, which by nature is exaggerated? The absurd and dangerous decision marked the future of the media and it was repeated in various media, but it was enough to understand that Supercom was ready for anything.
CITIZENS PASSIVELY ATTENDED NOT ONLY TO THE CONSTRUCTION OF A SYSTEM TO CONTROL THE PRESS, BUT ALSO WITNESSED THE RISE OF A MEGA ADVERTISING STRUCTURE THAT SUPPORTED ALL THAT THE GOVERNMENT DOES.

An active part of society, including academics and intellectuals, were attracted to the government's proposals and preferred silence. To justify their actions, they developed twisted semiotic theories and political reasons justifying the actions of the regime.

The actions, plans, decisions and mistakes of the government always passed through the axis of the propaganda, which was shown as an intimidating and uncontrollable power. “If people feel the physical sensation of living crushed by it, it is not only a matter of size. It is, above all, by the fact that propaganda has become, under the Correa government, the most important state institution. This institution seems to have a single objective: to ensure that the state will always have the last word. So there is no possible political debate: everything is silenced by the propaganda. This is unprecedented in the country’s history. The Correa government has erected propaganda in the form of government and has changed it into the most dangerous and oppressive system of social control that has been imposed in Ecuador since the return of democracy, wrote Roberto Aguilar in 2014.

Those words are set in a truth: the State holds five television channels, three newspapers, four radios, five magazines, a news agency and a system of social networks.

Aguilar also explained how the State’s communication structure acted: “An opposition politician or a critical citizen expresses his opinion on a radio or television and 48 hours do not pass without the propaganda apparatus, in the same space and through a piece produced specifically for the purpose, not only responding to the boldness, but abusing it, outraging it, subjecting it to public ridicule, making fun of it, destroying it.”

Social network systems of harassment are formed through contractors, various state entities, with monitoring by the State Ministry of Communication, and sums that allow them to operate with a technological infrastructure, plus the use of software that allows them to hide their identities. The investigative journalism portal milhojas.is was the first to reveal the operation of these centers, and it identified two companies related by their shareholders that managed contracts over US$ 300,000 in 2013.

In early 2015, Rafael Correa presented this strategy to control public debate: the creation of the www.somosmas.ec page consisting of an army of trolls, volunteers and state officials willing to harass and annihilate the tweeters misaligned with the center's thought of the regime. “What do they get with [to those trolls] 10,000 tweets saying you’re a liar,” President Correa asked his followers. “These people should feel pressured, not us, because we are more, many more.”

While other countries fight against cyberbullying, in Ecuador it is instituted as policy, Aguilar said in his blog. There are emblematic cases of abuse by social networks, highlights Martha Roldós Bucarán, leftist politician, daughter of former President Jaime Roldós Aguilera, who died in a plane crash in 1981. Martha Roldós promoted the creation of a foundation for the development of investigative journalism and human rights since 2013. To get it through, she obtained financing from the foundation National Democracy for Democracy from the United States, but their emails were hacked by the intelligence services of Ecuador and delivered to the government newspaper El Telégrafo that presented those documents as a sign of destabilizing attempts against progressive governments in the region.

Her case in the state media was accompanied by unimaginable attacks on social networks: she was accused of being an agent of the Central Intelligence Agency (CIA). They also recalled her father’s accident—supposedly perpetrated by the CIA—and accused him of treason, of agreeing with the murderers of the former president.

The Fundamedios organization experienced another drama marked on the social networks. After the OCL was implemented and it controlled the media, the aim of the Ministry of Communication, managed by Fernando Alvarado Espinel, was to end this organization that sought to improve journalism in Ecuador. Fundamedios provided a space to two of the most notorious editorial writers in the country: Jose Hernandez and Roberto Aguilar, who lost their jobs after the bankruptcy and government intervention in Diario Hoy, a progressive court circular that disappeared after 30 years of activity. Part of its failure was due to the harassment by the state sector against its main shareholder, Jaime Mantilla Anderson.

They were invited to write freely in their own blogs about what they know best: politics. Fundamedios then spread the texts of the two journalists through social networks. A short time after the foundation began, a closing process was initiated against it based on Presidential Decree No. 16, which prevents NGOs from doing politics. Fundamedios had promoted the editorials by Aguilar Hernandez on 54 tweets. Then he received a wave of attacks similar to a tsunami wave. Secom justified the possible closure on the criterion that “it has clearly deviated from its statutory purposes” and urged him not to issue alerts on attacks on the media. In an official letter sent on June 24, 2015, Secom said Fundamedios must “comply with current legal regulations and the rules of its own statute” because the spread of “alerts (attacks on the press), messages (on censorship) and studies [such as editorials] demonstrate clearly political positions that are prejudicial to social development which is the general objective of this social organization.” The letter cites the grounds for dissolution established in the Executive Decree No. 16, and Fundamedios was threatened by its “clear intention to establish itself as a political actor that seeks to generate suspicion in public opinion on issues that are not within its competence.” It was

The war against the Ecuadorian press

The war against the Ecuadorian press

The attack by the Propaganda State has been closely linked to the system of censorship: The State Secretary of Communication has an effective system for digital media and social networks that surpasses the country’s borders. It is based on the supposed registration of intellectual property with pictures and photographs produced by the government communication system of the government, with money from all Ecuadorians. It was the journalist Monica Almeida who discovered how the Ecuadorian government uses the Spanish company Ares Rights to make claims for copyright infringement on the web to Google, YouTube, Twitter, Scribd and others. “With this method, they manage to remove videos, documents, photos, photomontages or anything that constitutes a criticism of the regime, a satire against representatives or a complaint of possible acts of corruption from the network.”

The publication of a picture of the president, the vice president or any government logo, is reason enough to trigger legal mechanisms that aim to remove portals like Plan V, FocusEcuador and Fundación Mil Hojas. These spaces that represent investigative journalists are being targeted by the state’s communication system, led covertly by Fernando Alvarado Espinel and openly by Patricio Barriga Jaramillo, another journalist who now serves as principal officer of Secom. On July 2, Barriga wrote to the website of the American company, CloudFlare, to tell them that milhojas.is violated the Copyright Act of the United States of America, called Digital Millennium (DMCA in English).

Barriga showed that this portal used no fewer than nine pictures of Rafael Correa with a logo of a state entity, photographs of a medical dispensary for social security and of the campaign for the referendum of 2011.

In his ignorance, the secretary of communications felt that CloudFlare could take down the page, but actually it was a service that the company provides to the portal, “we are beneficiaries of its Galileo protection program, for media and artists who are being persecuted by censorship in their countries through simultaneous attacks to the server so that it stops working [DDOS],” they wrote in an editorial.

The portal had been withdrawn for posting information related to the location of the National Intelligence Secretariat.

The authorities made a claim to CloudFlare regarding a trademark infringement (Trademark Infringement) by the use of the logo “Ecuador loves life.” That logo was created to promote exports and tourism in Ecuador, but is also used by the government as the letterhead on official documents that are produced digitally or printed on paper. It is also used in propaganda of the regime and even as an ethical signal to identify dozens of offices that have spread across the state in the countryside and the city.

The presence of the logo in any newsworthy report, places conditions on its use and therefore the state can censor the content of its publications underpinned by a simple image that is copyrighted.

It is known that the owner of the copyright of the images of the state is Vinicio Alvarado Espinel, brain of the state propaganda and censorship system. Does the logo “Ecuador loves life” belong to or simply appear as the representation of the State in the registry of images? Besides trademarks -the numbers of which are included in the letters of protest- can not be viewed online at the Ecuadorian Institute of Intellectual Property.

“The toiled attempt to remove critics’ portals makes them lose the line of reason and therefore once again become evidence. Undoubtedly, a new edge to know how the Alvarado clan built his fortune in 11 years of citizen revolution. Now we need to know if the conditions for trademark registrations pay royalties to Alvarado, the government or the state,” the journalist from that media source wrote.

They added that, “The name of Vinicio as apparent owner of those records shows the abuses of the Correa state; maintaining the intellectual property of what is produced is a privilege that few officials in a dictatorship have managed. It is possible that the orders may be executed and doing so may add to his resume another human rights abuse,” they culminated.

The events described were formed and constituted in light of a leftist speech that soon proved to be authoritarian, that came to power with an air of renewed policy imagination, efficiency, accountability and youth. From this, nothing remains and the country must face a vertical system that any ruler can be drawn to keep. Ecuador was a small country that had the ability walk in other’s shoes. After 10 years, this nation no longer remembers those capabilities and is divided into a polarization of good and bad.

The press in turn must lift itself up and recover its good practices if indeed it wants to improve the quality of democracy in the country, but this requires the political courage to destroy the authoritarian matrix who rose with the laws forged from the left. There is no answer to what’s next for this Andean country, but without a doubt it is a mirror for a world that strives to create a world of control, censorship and little tolerance for different thinking.
References

- https://estadodepropaganda.com/2015/05/22/la-mentira-obligatoria-y-la-claudicacion-del-periodismo/
- http://www.arcotel.gob.ec/ventanilla-del-usuario/informe-definitivo-de-la-comision-de-auditoria-de-frecuencias/
- http://www.ecuavisa.com/articulo/noticias/actualidad/42988-quien-carlos-ochoa-primer-superintendente-de-informacion
This report was made possible with financial support from the Norwegian Agency for Development Cooperation (Norad).

We welcome any questions or clarification needs in writing to post@pwyp.no

Legal disclaimer:

This publication is based on information provided to Publish What You Pay Norway (PWYP Norway) and individuals acting on behalf of PWYP Norway. The conclusions presented herein are based only on information so provided. PWYP Norway and those acting on behalf of PWYP Norway have strived towards acquiring full overview of all relevant information and data to prepare this publication. We do not accept liability whatsoever for any insufficiency or inadequacy of the information and data that this publication is based upon.

While PWYP Norway has taken all reasonable care to ensure that the information contained in this publication is accurate, publicly available information and data has not been verified by the companies or users and neither PWYP Norway nor any person acting on behalf of PWYP Norway in the drafting and preparation of this publication can be held legally responsible for the content or guarantee that it is totally free from errors or inaccuracies.

Any references contained in this publication pertaining to any kind of sources, publications or websites from third parties, are inserted for convenience only and are purely for informative purposes. They do not constitute endorsement of material on those sites, publications or sources. PWYP Norway and those acting on its behalf accept no liability whatsoever for any loss or damage arising from the use of such information.

PWYP Norway is the Norwegian chapter in a network of 800 organisations from more than 70 countries worldwide. We work for financial transparency in the extractive industry to promote sustainable societies.