

Ecuador

	2013	2014		
Internet Freedom Status	Partly Free	Partly Free	Population:	15.8 million
Obstacles to Access (0-25)	10	9	Internet Penetration 2013:	40 percent
Limits on Content (0-35)	11	11	Social Media/ICT Apps Blocked:	No
Violations of User Rights (0-40)	16	17	Political/Social Content Blocked:	No
TOTAL* (0-100)	37	37	Bloggers/ICT Users Arrested:	No
			Press Freedom 2014 Status:	Not Free

* 0=most free, 100=least free

Key Developments: May 2013 – May 2014

- In August 2013, the Ecuadorian government launched a global initiative known as FLOK Society, intended to help the country transition from an oil-based economy to an information-based, open knowledge society (see **Obstacles to Access**).
- Ecuador's Organic Law on Communications, passed in 2013, began to be implemented in late 2013 and early 2014, paving the way for control of traditional media with an online presence (see **Limits on Content**).
- Following extensive campaigning from civil society organizations, the government rescinded Article 474 of Ecuador's new penal code (Código Orgánico Integral Penal), which would have legalized surveillance of all internet transactions (see **Violations of User Rights**).
- Accusations of hacking, cyberattacks, and harassment increased in late 2013 and early 2014, extending to the interception of email between high-ranking officials and threats against independent bloggers (see **Violations of User Rights**).

Introduction

Ecuador, a relative newcomer to technological development among Latin American nations, has witnessed substantial improvement in internet access over the past three years. In October 2013, the government's Institute for Higher Learning (IAEN) launched a global initiative known as Free/Libre Open Knowledge (FLOK) Society dedicated to paving the way for Ecuador to transition away from an extractive, oil-reliant economic model toward a model based on open knowledge.¹ FLOK aims to promote economic prosperity via the creation of a dynamic and innovative society, wherein knowledge and technology are available to all.² Despite such venerable ambitions, the status of internet and press freedom in Ecuador has been highly paradoxical in recent years. While the state guarantees privacy of communications, allegations of state surveillance cast doubt on the reliability of such guarantees.

In June 2013, Ecuador's controversial Organic Law on Communications was passed. Human rights organizations have feared that the law, which utilizes vague wording, arbitrary sanctions, and the threat of civil and criminal penalties, will stifle critical voices and halt the spread of information that discredits officials, even when such information is supported with evidence.³

In 2013 and 2014, the Ecuadorian government introduced a handful of proposals concerning regulation and control of the internet and was met with increased opposition to potential restrictions from a newly dynamic civil society coalition. On the heels of the June 2013 passage of the communications law, activists from Usuarios Digitales, the government-sponsored FLOK Society, and the Internet Libre collective, lobbied against—and defeated—the broad surveillance provisions proposed under Article 474 of the new penal code (Código Orgánico Integral Penal or COIP).⁴ Had Article 474 been approved, it would have forced internet service providers (ISPs) to record all user activity for six months. Due in large part to civil society action, however, the new penal code was passed in November 2013 without Article 474.

Over the past year, Ecuador has been the focus of some international media coverage regarding the Edward Snowden surveillance leaks. Snowden's revelations about governmental espionage and privacy violations catalyzed a global debate regarding state surveillance policies—one that grew to encompass Ecuador after President Correa extended an offer of asylum to Snowden. In June 2013, Foreign Secretary Ricardo Patiño reiterated Ecuador's stance, stating that the country would be a safe haven for Snowden if he were able to reach Ecuadorian soil.⁵ Similarly, in August 2013, the Ecuadorian government released a statement reaffirming its 2012 offer of asylum to Julian Assange, the WikiLeaks founder who had, at that point, been holed up in the Ecuadorian embassy in London for over a year.⁶ Despite its positive stance toward foreign whistleblowers, however, the Ecuadorian

1 David Bollier, "Bauwens Joins Ecuador in Planning a Commons-Based Peer Production Economy," Bollier.org, September 20, 2013, <http://bollier.org/blog/bauwens-joins-ecuador-planning-commons-based-peer-production-economy>

2 Official site of FLOK Society, accessed April 17, 2014, <http://flokociety.org/>

3 Gina Yauri, "Ecuador Passes Controversial Communications Law," Global Voices Online, June 19, 2013, <http://globalvoicesonline.org/2013/06/19/ecuador-passes-controversial-communications-law/>

4 Facebook Page of Usuarios Digitales, accessed April 17, 2014, <https://es-es.facebook.com/InternetEcuador>

5 Últimas Noticias, "Ecuador Estudiará Solicitud de Asilo Político de Edward Snowden" [Ecuador will Consider Request for Political Asylum from Edward Snowden], June 23, 2013, <http://www.andes.info.ec/es/actualidad/ecuador-estudiar-solicitud-asilo-politico-edward-snowden.html>

6 Press Association, "Ecuador Restates Support for Julian Assange on Asylum Anniversary," *The Guardian*, August 16, 2013, <http://www.theguardian.com/media/2013/aug/16/ecuador-julian-assange-asylum-anniversary>

government has a contradictory history of attempting to suppress criticism of political leaders within its own borders (see “Limits on Content” and “Violations of User Rights”).

Obstacles to Access

Although it is still developing, Ecuador’s information and communications technology (ICT) sector has experienced tangible growth in recent years due in large part to government efforts to expand access, such as Ecuador’s “Digital Strategy 2.0” plan, intended to extend internet connectivity to 50 percent of households by 2015.⁷ As of 2013, internet penetration in Ecuador was measured at 40.3 percent, a notable increase given that penetration was just below 30 percent in 2010.⁸ According to a first quarter 2014 report from Akamai, Ecuador’s average internet speed is 3.3 Mbps.⁹

Ecuador has 35,111 kilometers of fiber-optic cable and the government is working to expand internet services across the country so that the technology can be used as a tool for national development. As of September 2013, the government had installed over 1 million network access points as part of its national telecommunications growth strategy.¹⁰ Ecuador has approximately 22 internet service providers (ISPs), three of which—ETAPA, GrupoTvCable, and CNT—offer national coverage. Of all Ecuadorian ISPs, ETAPA and GrupoTvCable hold the greatest percentage of market share.¹¹ Speeds of 2 Mbps cost an average of US\$20 per month, whereas a 5 Mbps subscription can be found for US\$40-50 per month. In some places, 10 Mbps subscriptions are available at a rate of approximately US\$60 per month.¹² Under a provision prioritizing essential technology, computers, which range from approximately US\$800 to \$1000, are tax-free when imported from other countries. As compared to an average wage of US\$318 per month, however, computers are not easily affordable.¹³ For those fortunate enough to own computers, there are multiple internet subscription options, ranging from dial-up pay-per-minute plans to cable and satellite connections.¹⁴ Broadband (commonly used in urban zones) and satellite connections (often used in rural areas) have become increasingly popular in recent years, eclipsing dial-up plans.

Ecuador is also home to an active contingent of mobile phone users. With over 17.5 million mobile

7 Roberta Prescott, “In New Digital Plan, Ecuador Aims for Internet Access to Half of All Households by 2015,” RCR Wireless, November 16, 2011, <http://www.rcrwireless.com/americas/20111116/networks/in-new-digital-plan-ecuador-aims-for-internet-access-to-half-of-all-households-by-2015/>

8 International Telecommunication Union, “Individuals Using the Internet,” 2000-2013, <http://www.itu.int/en/ITU-D/statistics/Pages/default.aspx>

9 Akamai, “State of the Internet Visualization: First Quarter 2014” Infographic, <http://www.akamai.com/stateoftheinternet/soti-visualizations.html#stoi-map>

10 Ministry of Telecommunications and Information Society, “Ecuador Digital se Consolidó en el 2013” [Ecuador Digital was Consolidated in 2013], December 27, 2013, <http://www.telecomunicaciones.gob.ec/ecuador-digital-se-consolido-en-el-2013/>

11 El Tiempo, “Internet Aumentara Velocidad” [Internet Speed will Increase], May 17, 2012, <http://www.eltiempo.com.ec/noticias-cuenca/96903-internet-aumentara-velocidad/>

12 CNT, National Corporation of Telecommunications, *Products and Services*, CNT, 2012, http://www.cnt.gob.ec/cntwebregistro/04_cntglobal/productos_detalle.php?txtCodiSegm=1&txtCodiLine=4&txtCodiProd=34&txtCodiTipoMovi=0#valDes; See also: Bryan Haines, “Internet in Ecuador: 2013 Speed Update,” Gringos Abroad, May 18, 2013, <http://gringosabroad.com/ecuador/ecuador-internet-2013/>

13 *El Diario*, “Correa Anuncia que el Sueldo Básico Aumenta a \$318” [Correa Announces that the Base Salary is Increasing to \$318], December 22, 2012, <http://www.eldiario.ec/noticias-manabi-ecuador/250696-correa-anuncia-que-el-sueldo-basico-aumenta-a-318/>

14 Tempest Telecom, *Coverage Guide: Ecuador – Dialup Internet Access*, accessed August 8, 2013, <http://www.tempestcom.com/guide/guide.aspx?Id=60&view=1>.

subscriptions in 2013, the country has a mobile penetration rate of 111.5 percent—meaning that some individuals have more than one mobile phone—a marked increase from 2011, when mobile penetration was measured at 47 percent.¹⁵ According to the most recent national study, regional variations still persist, with the lowest number of subscribers found in the Andean highlands of Bolivar, and the greatest number in Pichincha, which counts Ecuador’s capital, Quito, among its cities. Mobile phone penetration also varies among income and education levels.¹⁶

Ecuador is home to three mobile service providers: one state-run operator, CNT, and two private providers, Claro (CONECEL) and Movistar (OTECCEL). Claro holds nearly two-thirds of active cellular accounts, followed by Movistar with approximately one-third, and finally, state-run CNT, with less than two percent of subscribers.¹⁷ Despite their popularity, the Ecuadorian government classifies mobile phones as luxury items. In addition to being excluded from the tax exemption extended to computers, a June 2012 ruling (No. 67) issued by the Committee on Foreign Trade (COMEX)¹⁸ also imposes quotas on the importation of mobile phones.¹⁹ According to the edict, the limitation is predicated on preventing further environmental degradation resulting from residual mobile phone waste.

By late 2013, Ecuador had begun making efforts to encourage greater civic participation on issues related to internet freedom and privacy. The launch of FLOK Society and FLOK’s November 2013 “Minga-tec” event opened a much-needed public debate about digital privacy and started a conversation about the relationship between government and civil society within Ecuador.²⁰ Minga-tec brought global activists and researchers together to promote open source technology and to discuss freedom of speech issues such as global surveillance practices. FLOK Society aims to make Ecuador’s “knowledge revolution” socially, ecologically, and economically sustainable following the country’s stated “principles of good living” (Plan Nacional para el Buen Vivir).²¹ These include: strengthening democracy and equality; improving quality of life; strengthening national identity, human rights, and environmental sustainability; and ensuring sovereignty and peace.²²

In February 2014, the National Secretary for Higher Education, Innovation and Technology launched the region’s first wiki legislation project (WikiCOESCI). This freely accessible site allows citizens of Ecuador and other nations to propose changes to the Organic Code for Social Economy of

15 ITU, Mobile-Cellular Subscriptions, 2000-2013, <http://www.itu.int/en/ITU-D/statistics/Pages/default.aspx>

16 INEC, National Center for Statistics and Censuses, “Reporte Anual de Estadísticas sobre Tecnologías de la Información y Comunicaciones (TICs) 2011” [Annual Report of Statistics about Information and Communications Technologies (ICTs) 2011], http://www.inec.gob.ec/sitio_tics/presentacion.pdf.

17 SUPTEL, “Operadoras Reportaron 17.133.539 Líneas Activas de Telefonía Móvil Prestadas a Través de Terminales de Usuario” [Operators Report 17,133,539 Active Mobile Telephone Lines Provided to Users], Superintendencia de Telecomunicaciones, February 20, 2013, http://www.suputel.gob.ec/index.php?option=com_content&view=article&id=1182%3Aoperadoras-reportaron-17133539-lineas-activas-de-telefonía-móvil-prestadas-a-traves-de-terminales-de-usuario&catid=44%3Aprincipales&Itemid=344.

18 COMEX, “Resolución N°67 del Comité de Comercio Exterior” [Legal Ruling # 67 of the Committee for External Business Relations], June 11, 2012, <http://www.produccion.gob.ec/wp-content/uploads/downloads/2012/09/RESOLUCION-67.pdf>

19 *La Hora Nacional*, “Restricciones de Comercio Limitarán Acceso a Internet” [Trade Restrictions will Limit Access to the Internet], June 26, 2012, <http://www.lahora.com.ec/index.php/noticias/show/1101351932#.UTONqahgbME>

20 FLOK Society, “En Vivo: Conclusión de la Minga por la Libertad Tecnológica” [Live: Conclusion of Minga for Technological Freedom] November 28, 2013, <http://flokociety.org/2013/11/28/en-vivo-conclusion-de-la-minga-por-la-libertad-tecnologica/>

21 Gobierno Nacional de La República del Ecuador, *Plan Nacional para el Buen Vivir* [National Plan for Good Living], Accessed April 21, 2014, <http://www.buenvivir.gob.ec/>

22 Gobierno Nacional de La República del Ecuador, *Plan Nacional para el Buen Vivir* [National Plan for Good Living], Accessed April 21, 2014, <http://www.buenvivir.gob.ec/>

Knowledge and Innovation. The goal of the Code is to design a framework for the “inclusive and democratic” development of an open knowledge society, “based on the intensive use of infinite resources.”²³ It remains to be seen how involved the public will become in shaping the new body of law; nonetheless, the government’s provision of an open forum for commentary and proposal offers an innovative avenue through which to encourage civic participation.²⁴

Over the past two years, Ecuador has shown improvement in extending internet access to rural areas via Infocentros and Mobile Classrooms (Aulas Móviles), two programs facilitated by the Ministry of Telecommunications (MINTEL). Ecuador’s state-run Infocentros—networked community centers that began to be installed in June 2012—offer internet access in 489 parish communities, and also provide equipment to 7,541 students throughout the country. An additional 387 Infocentros are slated to open in late summer 2014. Mobile Classrooms—which are intended to offer access to those without Infocentros nearby—have also proven successful, reaching 2,816 parishes and municipalities since the project’s June 2012 inception. In May 2013, MINTEL received an award from the International Telecommunication Union (ITU) in recognition of the success of its Mobile Classrooms Project. To date, the number of people using Infocentros is over two million nationwide.²⁵

In addition to Mobile Classrooms and Infocentros, in rural areas, cybercafes, which generally provide internet access at a rate of US\$1 per hour, are often relied upon. Such establishments face the same requirements as other businesses, including registering with the government. In order to utilize the services provided by cybercafes, the national secretariat of telecommunications, SENATEL, requires that users register with the following: full name, phone number, passport number, voting certificate number, email address, and home address. Users must also agree to terms that stipulate that all information entered into the database during use falls under the jurisdiction of SENATEL and the superintendency of telecommunications, SUPERTEL. If a user infringes on the terms and criminal charges are applicable to the transgression, the user will be prosecuted under Ecuador’s penal code.²⁶

Ecuador’s backbone is not highly centralized. There have been no reported incidents of the government placing restrictions on applications from new companies in the ICT sector; however, high registration costs and administrative hurdles can make it difficult to begin operating a new telecommunications business. New ISPs and mobile companies often face fees as high as US\$100,000 as well as legal obstacles, each of which can complicate their attempts to enter the market.²⁷ Private ISPs sometimes engage in bandwidth throttling (the intentional slowing down of internet service) to specific sites when excessive amounts of bandwidth are being consumed.

23 Secretaría de Educación Superior, Ciencia, Tecnología e Innovación, Código Orgánico de Economía Social del Conocimiento e Innovación [Organic Code for Social Economy of Knowledge and Innovation] Accessed April 21, 2014, http://coesc.educacionsuperior.gob.ec/index.php/C%C3%B3digo_Org%C3%A1nico_de_Econom%C3%ADa_Social_del_Conocimiento_e_Innovaci%C3%B3n

24 Secretaría de Educación Superior, Ciencia, Tecnología e Innovación, Código Orgánico de Economía Social del Conocimiento e Innovación [Organic Code for Social Economy of Knowledge and Innovation] Accessed April 21, 2014, http://coesc.educacionsuperior.gob.ec/index.php/C%C3%B3digo_Org%C3%A1nico_de_Econom%C3%ADa_Social_del_Conocimiento_e_Innovaci%C3%B3n

25 Original data taken from the annual report of the Ministry of Telecommunications: www.infocentros.gob.ec and from the associated press release: <http://www.ppelverdadero.com.ec/pp-al-dia/item/en-ecuador-funcionaran-387-nuevos-infocentros.html>

26 SENATEL, *Registro de Cybercafes On Line* [Registration of Cybercafes Online], Republica del Ecuador, accessed August 6, 2013, <http://www.regulaciontelecomunicaciones.gob.ec/registro-de-cibercafes/>

27 AEPROVI, general information available at: <http://www.aeprovi.org.ec>

It appears as though Ecuadorian ISPs utilize this strategy for traffic management rather than for censorship; however, they are not transparent about such restrictions and there are likewise no laws to protect against preferential treatment of certain sites in times of high traffic.

Ecuador's state regulatory agency is called the National Telecommunications Council (CONATEL).²⁸ It is part of the Telecommunications Ministry, the head of which is nominated by the president and also serves as the head of CONATEL, a process which demonstrates close alignment with the executive body.²⁹ In July 2012, CONATEL issued the Telecommunication Service Subscribers and Added Value Regulation Act.³⁰ Internet subscribers have taken issue with some of the act's main provisions, namely, the granting of authority to CONATEL to request users' IP addresses without a court order (Article 29.9).³¹

Limits on Content

In recent years, Ecuador has seen an increasingly controlled media climate—both in print and online media. Although 2013 marked the beginning of a dialogue between a diverse array of social actors and public officials regarding freedom of access legislation and internet governance, state regulatory bodies remain organized in such a way as to have little independence from the executive branch,³² a factor which compromises transparency and negates the possibility of an independent appeals process for citizens wishing to challenge restrictions on ICT access or content.

While there have been no widespread instances of blocking or filtering of websites or blogs in Ecuador, restraint of political and government-related content is common, both in print and increasingly online. Attempts to censor statements made in times of heightened political sensitivity have also been witnessed, either via letters from the executive branch demanding that editors or website administrators delete content or via the overly broad application of copyright protection principles to content critical of the government. The former has involved news outlets that have allowed readers to post comments critical of the Correa administration on the comments sections of their websites. Following letters from the executive and court proceedings, in 2012, the comments sections of popular media outlets *La Hora* and *El Comercio* were each disabled indefinitely.³³

The use of copyright infringement claims as grounds for the removal of critical content has often

28 *El Universo*, "Presidente del CNE: Hay que regular a las redes sociales y a eso vamos" [President of CNE: We have Regular Social Networks], *El Universo*, October 18, 2012, <http://www.eluniverso.com/2012/10/18/1/1355/presidente-cne-hay-regular-redes-sociales-eso-vamos.html>

29 SENATEL, "CONATEL - Consejo Nacional de Telecomunicaciones" [CONATEL – National Telecommunications Council], accessed August 5, 2013 <http://www.regulaciontelecomunicaciones.gob.ec/conatel/>.

30 Carlos Correa Loyola, "Carta Impresa a Domingo Paredes, Presidente del CNE, sobre Intención de Regular las Redes Sociales" [Printed Letter to Domingo Paredes, President of CNE, about the Intention to Regulate Social Networks], *Bitácora de Calú* (blog), October 18, 2012, <http://calu.me/bitacora/2012/10/18/carta-impresa-a-domingo-paredes-presidente-del-cne-sobre-intencion-de-regular-las-redes-sociales.html>

31 *El Comercio*, "Jueces Ordenan que Juicio del Caso Luluncoto no se Transmita por Redes Sociales" [Judges Ordered that Case of Luluncoto is not to be Transmitted by Social Networks], January 23, 2013, http://www.elcomercio.com/seguridad/Jueces-ordenan-Luluncoto-transmita-sociales_0_852514906.html.

32 President Correa, Boletín No. 214, Hoy.com, June 25, 2013, <http://www.hoy.com.ec/hoyurgente/leycomunicacion.pdf>

33 Silvia Higuera, "Government of Ecuador asks Paper to 'Filter' Reader Comments," Knight Center for Journalism in the Americas, January 30, 2013, <https://knightcenter.utexas.edu/blog/00-12744-government-ecuador-asks-paper-filter-reader-comments>; See also: *El Comercio*, "Correa Da Su Version del Desfile Olimpico" [Correa Gives His Version of the Olympic Parade], July 28, 2012, http://www.elcomercio.ec/politica/Rafael-Correa-da-version-desfile-Olimpico-juegos-olimpicos_0_745125557.html.

involved Spanish copyright infringement firm Ares Rights. The firm has come under fire for its issuance of takedown notices on behalf of the Ecuadorian government, forcing the removal of a 2012 documentary about President Correa on grounds of copyright infringement for the use of the president's image, and catalyzing censorship of the film "Intag Indefensión."³⁴ Clips of the film, a politically sensitive documentary produced and directed by renowned filmmaker Pocho Álvarez, were posted on YouTube and Vimeo in late 2013. Ares Rights removed the content, which documents the impact of mining in the ecologically and socially vulnerable region of Intag, in response to complaints from government-run public television station ECTV.³⁵ Although the video was later reposted on a handful of sites with the original content, including YouTube, where it is currently available,³⁶ it is worth noting that its removal was not an isolated incident, but was part of at least one dozen takedowns of photos, videos, and documents that painted the government in an unflattering light.³⁷ In April 2014, the Twitter account of politically active blogger Diana Amores was also taken down by a copyright infringement claim issued by Ares Rights. Amores' offence was retweeting a letter from the president to the people of Quito during local elections in January. Amores' account was restored 24 hours after the takedown, after Twitter's evaluation of the copyright infringement law concluded that it had been used incorrectly.³⁸

The Board of Communication Control (CORDICOM or Consejo de Control de la Comunicación), which regulates media content, has played a pivotal role in increasing self-censorship primarily by prescribing high penalties for private citizens, journalists, and media companies that do not comply with the vague and overly broad rules for online content dictated in the country's highly controversial June 2013 Organic Law on Communications. As the institution that founded the Superintendency of Information (Superintendencia de la Información), CORDICOM is responsible for the rules and penalties for online media platforms, as part of the Communications law.³⁹

In addition to tasking website owners with "ultimate responsibility" for all hosted content, prescribing arbitrary sanctions for unbalanced reporting, and banning "media lynching"—an accusation often applied to investigative reporting in Ecuador,⁴⁰ the Organic Law on Communications also grants the Superintendency the power to audit, intervene, and control

34 Mike Masnick, "Spanish Anti-Piracy Firm Ares Rights History of Censorship by Copyright for Ecuador and Argentina," Techdirt.com, June 28, 2013, <http://www.techdirt.com/articles/20130628/17335823665/spanish-anti-piracy-firm-ares-rights-appears-to-specialize-censorship-copyright-latin-american-countries-like-ecuadorshtml>

35 Martin Pallares and Nancy Veredzoto, "Ares Rights purga de la Red datos molestos para el Régimen" [Ares Rights Purges Network Data after Interference from the Regime] El Comercio, October 27, 2013, http://www.elcomercio.com/politica/Ecuador-derechos-tecnologia-autor-politica-AresRights_0_1018698135.html

36 Poncho Alvarez' documentary *Intag Indefensión* was reposted on the following sites: exTrends, <http://www.extrends.co/video/intag-indefension/10579/>; Conflictos Mineros (the observatory of miners' conflicts) <http://www.conflictosmineros.net/biblioteca/videos/video/latest/intag-indefension>; and also, by the filmmaker himself on YouTube, http://www.youtube.com/watch?v=6gJaK3ATc_s

37 Martin Pallares and Nancy Veredzoto, "Ares Rights Purga de la Red Datos Molestos para el Régimen" [Ares Rights Purges Network Data after Interference from the Regime] El Comercio, October 27, 2013, http://www.elcomercio.com/politica/Ecuador-derechos-tecnologia-autor-politica-AresRights_0_1018698135.html; See also: Tech Dirt, Ecuador Using Copyright to Try to Take Down Leaked Documents About its Surveillance Practices, June 28, 2013, <http://www.techdirt.com/articles/20130627/22382723648/ecuador-using-copyright-to-try-to-take-down-leaked-documents-about-its-surveillance-practices.shtm>

38 The timeline of Diana Amores' account is posted on her Facebook and Twitter pages: @Diana_Amores; facebook/DianaAmores

39 El Churo Comunicación, "Reglamento Ley de Comunicación Ecuador" [Implementation of Communications Act] Slideshare.net, Jan 21, 2014, <http://www.slideshare.net/ElChuroComunicacion/reglamento-ley-de-comunicacion-ecuador>

40 Gina Yauri, "Ecuador Passes Controversial Communications Law," Global Voices Online, June 19, 2013, <http://globalvoicesonline.org/2013/06/19/ecuador-passes-controversial-communications-law/>

all information and media, as well as to enforce regulations governing information and communications. Although a promising step was taken in January 2014, when secondary legislation (Article 2) explicitly excluded individual expression on social media and personal blogs from regulation by the Superintendency, CORDICOM maintains the power to enforce all rulings and to further interpret the rules. A handful of conflicting articles in the Communications Law further cloud the environment: although Article 2 seems to protect freedom of online speech, Article 3 extends control of content by CORDICOM to “all media with an online presence,” which could easily negate the positive implications of the exclusionary clause in Article 2. While such contradictory regulation renders online expression legally precarious, the practical application of these powers has yet to be witnessed, leaving the legal status of personal expression online uncertain.⁴¹

Although it has been a bit slow to catch on, social media use is growing in Ecuador. As of June 2013 the country claimed nearly 6 million active Facebook users and 2.5 million Twitter users⁴²—for point of comparison, Ecuador’s population was estimated to be 16.7 million as of July 2014.⁴³ Access to blogs and social media platforms such as Facebook, Twitter, and YouTube is generally free and open in Ecuador; however, the government has periodically made announcements about its ability to monitor and regulate social networks. To date, it does not appear to be exercising this power, which would present an infringement on user privacy.⁴⁴

The Ecuadorian government has also been accused of manipulating conversations online via progovernment commentators, reportedly employed to counter opposition voices. In 2012, a series of interviews with government insiders and investigative journals pointed to the existence of a digital army slandering and discrediting dissidents online.⁴⁵ Although difficult to prove, evidence of internet trolls who post government propaganda and slander critics online has also been apparent surrounding electoral campaigns. There is no legal mechanism in place to combat such activity, but to date the threat of being discredited by trolls does not appear to have deterred citizens from participating in online debate.

Although tensions remain high, online activism is fairly robust. Sporadic threats against independently minded bloggers and activists did little to deter Ecuadorians from taking to the internet to voice their opinions in the months leading up to the February 2014 municipal elections.⁴⁶ Social media sites hosted online protests, and platforms such as Twitter fostered political debate, allowing citizens to voice their opinions on sensitive topics away from the scrutiny and control of

41 The entire secondary law can be downloaded at the Council of Communications: Cordicom: http://www.cordicom.gob.ec/wordpress/wp-content/uploads/downloads/2014/01/pdf-decreto_214-21-ene-2014.pdf

42 El Comercio, “Facebook es Aún lo Más Visto en Ecuador” [Facebook is Still the Most Visited Site in Ecuador] June 2, 2013, http://www.elcomercio.com/tecnologia/Facebook-visto-Ecuador-megusta-redsocial_0_930507006.html.

43 CIA, “The World Factbook: Ecuador,” June 22, 2014, <https://www.cia.gov/library/publications/the-world-factbook/geos/ec.html>

44 Website of CONATEL (National Telecommunications Council), <http://www.conatel.gob.ec/>

45 *El Universo*, “Dirigente de SP Revela Supuesto ‘Ejército’ de Cuentas Falsa en Ecuador” [SP Reveals Alleged ‘Army’ of Fake Accounts in Ecuador], February 28, 2012, <http://www.eluniverso.com/2012/02/28/1/1355/dirigente-sp-revela-supuesto-ejercito-cuentas-falsas-ecuador.html>; Maca Lara-Dillon, “Inedito: Gobierno de Ecuador Habría Montado un ‘Troll Center’” [Unpublished: Government of Ecuador has Set Up a Troll Center], *Pulso Social*, March 1, 2012, <http://pulsosocial.com/2012/03/01/inedito-gobierno-de-ecuador-habria-montado-un-troll-center/>; See also: *Ecuador Times*, “Rafael Correa Asked the SENAIN to Investigate Twitter Accounts,” *Ecuador Times*, January 25, 2013, <http://www.ecuadortimes.net/2013/01/25/rafael-correa-asked-the-senain-to-investigate-twitter-accounts/>

46 El Telegrafo, “Las Redes Sociales Tienen Su Propio Lenguaje en Campañas Electorales” [Social Networks Have Thier Own Language in Electoral Campaigns] February 28, 2014, <http://www.telegrafo.com.ec/cultura/medios/item/las-redes-sociales-tienen-su-propio-lenguaje-en-campanas-electorales.html>

authorities.⁴⁷ In a surprise turn, President Correa's Alianza Pais party lost the major posts in the largest cities.⁴⁸ There appears to be a correlation between the unexpected electoral results and the political leanings of the new internet-influenced generation. Growing internet access has nurtured a generation of politically involved urban youth that mistrusts traditional media and seeks an open and more diverse society.

Over the past year, environmental, ecological, and human rights organizations have been struggling to bring international attention to the plight of indigenous peoples and biodiverse areas being stripped of their natural resources by a government plan to increase revenue. The government, which is intent on suppressing negative news about its extraction of natural resources and its infringement on the lives of the protected peoples of the Amazon, has resorted to online and offline tactics to silence and discredit critics.

One online campaign to bring attention to the plight of the Yasuni, an indigenous group threatened by government-led excavation projects, managed to mobilize social and political actors worldwide. Online protests helped the Yasuni movement collect more than the requisite 500,000 signatures needed for a referendum to stop the oil drilling in the Yasuni area. By early May, however, the government had dismissed half of the signatures due to "format nonconformities" such as using the wrong color of ink. The remaining 360,000 petition signatures deemed acceptable were too few in number to force a referendum.⁴⁹

Violations of User Rights

Ecuador has long held an ambivalent attitude toward media, characterized on the one hand by positive development strategies to extend ICT access across the country, offers of asylum to prominent and controversial freedom of information advocates Julian Assange and Edward Snowden (both men face criminal charges in at least one country), and pronouncements about the importance of freedom of speech. These highly visible maneuvers stand in stark contrast with contentious interactions with journalists, increasingly stringent media laws and penalties, mandatory identification and registration requirements for the purchase of mobile phones, and attempts at expanding surveillance of private citizens—while denouncing the vast surveillance carried out by the U.S. National Security Agency (NSA) on American citizens.⁵⁰

Ecuador's constitution guarantees "universal access to information technologies and communication (Article 16.2), and confers the ability to exercise one's right to communication, information, and

47 María José Calderón, *Democracia y Participación Electoral. Cuadernos de Promoción Electoral*. [Democracy and Electoral Participation, Electoral Promotion Papers], Insituto de la Democracia, November, 2013

48 Alexandra Valencia, "Correa Government Loses Ecuador Capital in Local Election," Reuters, February 24, 2014, <http://www.reuters.com/article/2014/02/24/us-ecuador-election-municipals-idUSBREA1N0WV20140224>; See also: Infobae America, "Rafael Correa Admitió el 'Doloroso' Revés en Ecuador Tras la Derrota de Su Partido en Quito" [Rafael Correa Admits 'Painful' Setback in Ecuador After the Defeat of His Party in Quito], Infobae America, February 24, 2014, <http://www.infobae.com/2014/02/24/1545781-rafael-correa-admitio-el-doloroso-reves-ecuador-la-derrota-su-partido-quito>

49 The full report can be seen at: http://www.elcomercio.com/politica/CNE-yasunidos-consultapolular-Yasuni-firmas-informejuridico-descarta_0_1134486737.html; the Twitter account of yasunidos had high profile advocates such as film stars and politicians campaigning globally; see: @yasunidos, <http://www.yasunidos.org/>

50 Jessica McKenzie, "A Bit of Hypocrisy from Ecuador on the Internet, Tech President, November 20, 2013, <http://techpresident.com/news/wegov/24541/bit-hypocrisy-ecuador-internet-surveillance>

freedom of expression (Article 384).⁵¹ However, a discretionary loophole in Resolution TEL-477-16-CONATEL-2012 grants ISPs a wide margin for the implementation of “actions they deem necessary to the proper administration of the service network,” and by extension, threatens net neutrality.⁵² In July 2012, Ecuador’s Ministry of Telecommunications issued a resolution (the Telecommunication Service Subscribers and Added Value Regulation Act) establishing a framework for ICT user rights and the regulation of ISPs. Among its provisions are articles stating that telecommunications is considered a “strategic sector” by the Ecuadorian government, and that the state is tasked with the “administration, regulation, control and management” of such technologies, while also being responsible for ensuring that the public has access to ICTs. Article 14 further establishes a state guarantee of privacy and security for users, prohibiting third party interception of communications.⁵³ Despite such positive provisions, however, Article 29.9 of the same act authorizes CONATEL to track IP addresses from ISP customers without a judicial order.⁵⁴ While there are no specific laws criminalizing online content, standard defamation laws apply to content posted online.⁵⁵ Lawsuits have been filed against digital news sites for comments critical of the current administration, and calls for investigations into Twitter users who post content critical of the government have been levied by governmental authorities, including President Correa.⁵⁶

In December 2013, President Correa announced that his email had been intercepted by two members of his administration: representative Cléver Jiménez (sued by the president in 2011 for libel and under fire again in 2013 for criticizing the president’s alleged purchase of advanced surveillance equipment) and opposition delegate Fernando Villavicencio. After raids on their offices, they were charged with high-level espionage. Following the expulsion of Cléver Jimenez from the National Assembly, he was processed and charged under a separate defamation case.⁵⁷

In the wake of the aforementioned arrests, in early 2014 the popular humorist Bonil published a cartoon in the newspaper *El Universo* satirizing the police raid on the home of Francisco Villavicencio. The cartoon, which went viral, was posted and retweeted on social media thousands of times before Bonil and *El Universo* were charged with violating provisions of the Organic Law

51 MINTEL, “Autoridades del MINTEL se reunieron con usuarios digitales” [MINTEL Authorities Met with Digital Users], Ministerio de Telecomunicaciones y Sociedad de la Información, August 13, 2012, <http://www.telecomunicaciones.gob.ec/autoridades-del-mintel-se-reunieron-con-usuarios-digitales-2/>.

52 See Article 15.6 of CONATEL’s Telecommunication Service Subscribers and Added Value Regulation Act: http://www.elcomercio.com/seguridad/Jueces-ordenan-Luluncoto-transmita-sociales_0_852514906.html

53 See Article 14 of CONATEL’s Telecommunication Service Subscribers and Added Value Regulation Act: http://www.elcomercio.com/seguridad/Jueces-ordenan-Luluncoto-transmita-sociales_0_852514906.html

54 Carlos Correa Loyola, “Carta Impresa a Domingo Paredes, Presidente del CNE, sobre Intención de Regular las Redes Sociales” [Printed Letter to Domingo Paredes, President of CNE, about the Intention to Regulate Social Networks], *Bitácora de Calú* (blog), October 18, 2012, <http://bit.ly/18l0dBH>

55 Asamblea Nacional de Ecuador, “Constitución del Ecuador” [Constitution of Ecuador], Asamblea Nacional de Ecuador, October 20, 2008, http://www.asambleanacional.gob.ec/documentos/constitucion_de_bolsillo.pdf

56 *Ecuador Times*, “Rafael Correa Asked the SENAIN to Investigate Twitter Accounts,” *Ecuador Times*, January 25, 2013, <http://www.ecuadortimes.net/2013/01/25/rafael-correa-asked-the-senain-to-investigate-twitter-accounts/>

57 Jimenez and two of his advisers were charged for public accusations made against the President in 2011 regarding the events of September 30, 2010. He has sought refuge since April within the Quechua community of Sarayaku in the rainforest region. Updates on the case can be found at the government’s journal *el PP Verdadero* and *El Telégrafo* at independent newspaper *Diario Hoy*, <http://www.hoy.com.ec/noticias-ecuador/clever-jimenez-se-confiesa-en-el-umbral-de-la-carcel-603113.html>, and *El Comercio*, http://www.elcomercio.com/politica/sarayaku-amazonia-clever-jimenez-rafael-correa-Alexa_0_1128487204.html; For international news: Rosie Gray and Adrian Carrasquillo, “Ecuador Defends Domestic Surveillance,” *Buzzfeed*, June 27, 2013, <http://www.buzzfeed.com/rosiegray/ecuador-defends-domestic-surveillance>. Further information about the police uprising on September 30 can be found at: www.elcomercio.com/tag/30s.html The UN resolution: http://www.elcomercio.com/politica/Mision-ONU-dice-democracia-peligro_0_631136987.html

on Communications.⁵⁸ Under Article 11 of the law, which states that all content without proper verification will be fined, Bonil and *El Universo* were each sentenced to pay US\$90,000 to the Superintendency of Information. Bonil was also ordered to issue a formal correction of his cartoon, and *El Universo* was fined an additional two percent of its billings for the three months prior to the verdict.⁵⁹ The defense appeal is still pending; however, in the corrected version of his cartoon, which was meant to portray only the facts as reported by the authorities, Bonil once again managed to criticize the government with an overly polite rendition of the raid that made light of the request to formally correct his cartoon.⁶⁰

In 2013, Ecuador was witness to increased proposals for regulation and control of the internet—along with increased opposition from a newly dynamic civil society coalition. Neither anonymous nor encrypted communications are prohibited in Ecuador; however, an article proposed in October 2013 threatened online anonymity. Four months after the June 2013 passage of the Organic Law on Communications, the National Assembly attempted to pass a new penal code (COIP) containing an Article (474) which would have greatly reduced online anonymity and broadened surveillance of ICT users.⁶¹

In response, the internet activist organizations Usuarios Digitales, Apertura Radical, and Asociación de Software Libre del Ecuador launched a campaign on social media under the hashtag #InternetLibre to lobby against Article 474's proposed surveillance provisions.⁶² Had the new penal code been approved with Article 474 intact, ISPs would have been forced to record all user activity—including IP addresses—for six months. Cybercafes would also have been required to install surveillance equipment in order to record video footage of customers.⁶³ Due in large part to civil society action, Article 474 was removed before the new penal code was passed in November 2013.

While the deletion of Article 474 is a positive step, in recent years a number of international websites have reported on the Ecuadorian government's secret acquisition of a biometric surveillance system. The platform, allegedly installed by Russian company Speech Technology Center, is reportedly capable of facial and voice recognition.⁶⁴ Documents have also surfaced detailing attempts to purchase surveillance drones from overseas contractors. The government has defended its right to conduct surveillance in criminal investigations, but has said that it does not engage in such activities

58 The corrected version had replies in most newspapers in Ecuador and the region: <http://www.hoy.com.ec/noticias-ecuador/bonil-rectifica-caricatura-600290.html>; Spain: http://internacional.elpais.com/internacional/2014/02/05/actualidad/1391639841_911785.html; Colombia: http://internacional.elpais.com/internacional/2014/02/05/actualidad/1391639841_911785.html; Perú: <http://elcomercio.pe/mundo/latinoamerica/ecuador-bonil-rectifica-caricatura-que-molesto-correa-noticia-1707442>

59 Associated Press, "'Bonil,' Indignado por Sancion de la Supercom" ['Bonil,' Outraged by Supercom Sanctions] *El Comercio*, February 3, 2014, http://www.elcomercio.com/politica/Bonil-caricatura-Xavier_Bonilla-El_Universo-Ley_Comunicacion-Superintendencia_Informacion-sancion_0_1078092332.html

60 RSF, Bonil Rectifies with Sarcastic Cartoon, RSF, February 3, 2014, <http://en.rsf.org/ecuador-ruling-on-cartoon-reveals-03-02-2014,45818.html>

61 Usuarios Digitales Facebook page, accessed April 22, 2014, <https://es-es.facebook.com/InternetEcuador>

62 Campaign launched on Facebook page of Usuarios Digitales: <https://www.facebook.com/InternetEcuador>; See also: GKillCity.com, "Free Internet," November 18, 2013, <http://gkillcity.com/dossier/internet-libre>

63 Juan Arellano, "Ecuadorian Activists Say No to Cybercafe Surveillance," *Global Voices*, November 19, 2013, <http://advocacy.globalvoicesonline.org/2013/11/19/ecuadorean-activists-say-no-to-cybercafe-surveillance/>

64 Ryan Gallagher, "Ecuador Implements 'World's First' Countrywide Facial- and Voice- Recognition System," *Slate.com*, December 12, 2012, http://www.slate.com/blogs/future_tense/2012/12/12/surveillance_ecuador_implements_speech_technology_center_s_facial_and_voice.html; See also: Planet Biometrics, "Ecuador Deploys Nationwide Voice and Face Biometrics ID System," November 12, 2012, <http://www.planetbiometrics.com/article-details/i/1388/>

for political purposes.⁶⁵ To date, the administration has neither confirmed nor denied reports of the installation of a biometric surveillance system or of attempts to purchase drones for surveillance, despite articles detailing Ecuador's acquisition of large "Heron" drones from Israel Aerospace Industries.⁶⁶ In January 2014, however, President Correa revealed Ecuador's first domestically manufactured drone. The "unmanned aerial vehicle," known as UAV-2 Gavilan, or Hawk, was created by the Ecuadorian Air force as a surveillance tool for areas that are difficult to access, such as the Amazon rainforest. While the president announced that the drones, which can transmit photo and video footage in real time, will be used primarily in the fight against drug trafficking, given that there appears to be little oversight or regulation of the domestic UAV program, some have voiced concerns that the drones could be used to track and gather information on the political opposition.⁶⁷

Journalists and bloggers have often been subject to threats and harassment online. In May 2013, Martin Pallares, a journalist for the newspaper *El Comercio*, was subject to harassment and death threats on Twitter, where he was warned that he would be murdered if he remained in Ecuador.⁶⁸ In December 2013, Juan Carlos Calderon, an investigative journalist and the founder of *Plan V*, a digital magazine about corruption, received multiple threats, which he largely ignored until two "menacing-looking" men came to his house looking for him.⁶⁹

In January 2014, political activist, filmmaker, and writer Carlos Andrés Vera, who owns the popular blog Polificcion, was targeted on Twitter. After his 3-year-old son was threatened, reportedly by a government representative, Vera announced that he would be abandoning online activism and would be removing himself from online political debate.⁷⁰ In April 2014, after a column she wrote criticizing President Correa's U.S. trip appeared in *El Universo*, journalist and active Twitter user Betty Escobar, a long-time target of President Correa's anti-press broadcasts, received a frightening threat at her home in New York. Flowers were left at her door along with a message forewarning that her "friends in Ecuador" would be paying her a visit. Her parents and aunt, who live in Ecuador, received similar threats the same day. Ms. Escobar filed complaints with the New York City Police Department and the District Attorney in Guayanas, Ecuador. Although the case is still under investigation, it is noteworthy as it is the first report of a journalist living overseas being threatened for an article that appeared in an Ecuadorian newspaper.⁷¹ Finally, in May 2014, Marlon Puertas, an editor and writer,

65 Rosie Gray and Adrian Carrasquillo, "Ecuador Defends Domestic Surveillance," BuzzFeed, June 27, 2013, <http://www.buzzfeed.com/rosiegray/ecuador-defends-domestic-surveillance>

66 Diego Cupolo, "Drone Use Soars in Latin America," Upsidedownworld.com, December 19, 2013, <http://upsidedownworld.org/main/international-archives-60/4615-drone-use-soars-in-latin-america-remains-widely-unregulated->

67 RT.com, "El Drone: Correa Presents 'Surprise' Ecuadorian UAV," January 12, 2014, <http://rt.com/news/ecuador-drone-correa-surprise-483/>

68 Vanessa I. Garnica, "Government Attacks Deter Press Freedom in Ecuador," International Press Institute, May 22, 2014, <http://www.freemedia.at/newssview/article/continued-government-attacks-deter-press-freedom-in-ecuador.html>

69 Associated Press, "Death Threats, Intimidation Mark Rising Hostility Against Press in Ecuador," December 7, 2013, <http://www.foxnews.com/world/2013/12/07/journalists-death-threats-intimidation-mark-rising-hostility-against-press-in/>

70 Hoy, "El Cineasta Carlos Andrés Vera Deja el Activismo en la Red" [The Filmmaker Carlos Andrés Vera Leaves Online Activism] February 19, 2014, <http://www.hoy.com.ec/noticias-ecuador/el-cineasta-carlos-andres-vera-deja-el-activismo-en-la-red-601132.html> His announcement was met with sympathy from opposition and government supporters alike, who expressed disgust that an activist's child would be threatened.

71 Human Rights Foundation, "Ecuador: HRF Condemns Harassment of Journalist in NYC Days After She Was Vilified by Correa," May 15, 2014, <http://humanrightsfoundation.org/news/ecuador-hrf-condemns-harassment-of-journalist-in-nyc-days-after-she-was-vilified-by-correa-00387>

was threatened on Twitter, when a hashtag implying that he ought to be shot gained traction. The account responsible for the campaign has since been deactivated.⁷²

Accusations of data manipulation, hacking, and other forms of cyberattacks have been leveled from both government and opposition groups during recent years. While such attacks—which have included modifications to webpages (defacements), phishing, and the spread of malware—have been sporadic rather than systematic, they appear to be on the rise. The websites of independent human rights organizations have been targeted on occasion, and have been subject to distributed denial-of-service (DDoS) attacks and unexplained disruptions. Although the sites' administrators suspect government involvement, no party has taken responsibility.

In late 2013 and early 2014, government websites as well as the personal email and Twitter accounts of government officials were subject to cyberattacks from groups such as Anonymous. The accounts of prominent political figures such as Ecuador's ambassador to the United States and the president of the national assembly were allegedly targeted. Important civic dates, such as the August 10th commemoration of the Battle of Independence, also tend to cause a spike in cyberattacks, often against the government. On August 10, 2013, the websites of many small Ecuadorian towns were disabled, and multiple government websites were defaced.⁷³ In March 2014, the president's Twitter account was hacked by Anonymous. The hacktivist group used President Correa's account to tweet allegations of corruption against a high-level official from the Ministers of Interior and the Intelligence. Despite the security breach, the account was restored after a few hours.⁷⁴

72 Vanessa I. Garnica, "Government Attacks Deter Press Freedom in Ecuador," International Press Institute, May 22, 2014, <http://www.freemedia.at/newssview/article/continued-government-attacks-deter-press-freedom-in-ecuador.html>

73 The press release with the video posted by Anonymous can be seen here: http://www.elcomercio.com/politica/sitio-ConsejoParticipacionCiudadana-hackeado-Ecuador_0_971903008.html

74 El Telegrafo, "La Cuenta de Twitter del President Fue Hackeada" [The Twitter Account of President Correa was Hacked] March 27, 2014, <http://www.telegrafo.com.ec/noticias/informacion-general/item/la-cuenta-del-presidente-correa-fue-hackeada.html>