

Ecuador

	2015	2016		
Internet Freedom Status	Partly Free	Partly Free	Population:	16.1 million
Obstacles to Access (0-25)	8	8	Internet Penetration 2015 (ITU):	49 percent
Limits on Content (0-35)	11	12	Social Media/ICT Apps Blocked:	No
Violations of User Rights (0-40)	18	21	Political/Social Content Blocked:	No
TOTAL* (0-100)	37	41	Bloggers/ICT Users Arrested:	Yes
			Press Freedom 2016 Status:	Not Free

* 0=most free, 100=least free

Key Developments: June 2015 – May 2016

- The use of copyright infringement notices to take down content critical of the government has become common practice. While a Spanish firm acting on behalf of Ecuador's public institutions has been behind many of these requests, government institutions have also started to issue removal requests claiming copyright infringement (See **Content Removal**).
- Defamation lawsuits and frequent verbal attacks continued to threaten critical commentary online, and two politicians were sentenced to 15 and 30 days in jail for their comments on social media (**Prosecutions and Detentions for Online Activities**).
- Evidence mounted that Ecuador's government engages in surveillance of a wide range of individuals, as leaked documents have exposed illegal spying on politicians, journalists and activists (see **Surveillance, Privacy and Anonymity**).
- Several online news outlets suffered cyberattacks after publishing articles detailing the links between Ecuador's intelligence agency and Hacking Team, and others were attacked while covering antigovernment protests in June 2015 (see **Technical Attacks**).

Introduction

Ecuador's internet freedom climate deteriorated during this period, threatened by politically motivated content removals, frequent legal and verbal attacks against government critics online, and cyberattacks against news sites.

While internet access continued to increase over the past year, Ecuador's a contradictory position on internet freedom has become more pronounced. The government of President Rafael Correa, who came into power in 2007, has been an early adopter of information technology, and online platforms played a central role in the party's initial election campaign. Through its Ministry of Telecommunications, the government has engaged in widespread campaigns to improve internet access and digital literacy all over the country. The protection of foreign whistleblowers such as Julian Assange (despite recent tensions)¹ and Edward Snowden, who was granted safe passage in order to travel to Russia, have given Ecuador fame as a defender of internet freedom. However, this image contrasts with the reality at home.

Heavy control on the printed press has been slowly transitioning to the online world. Takedowns, cyberattacks and phishing malware are part of the everyday lives of activists, journalists and political dissidents. The government has not been proactive in defending citizens against these threats; instead, it has actively exerted control over the digital space. The abuse of copyright infringement notices, progovernment troll centers, and heavy sanctions for private media under the 2013 Communications Law all continued to present limits on content. President Correa has repeatedly encouraged the public to "use the law" against his critics on social media and to dox users who insult him.

Moreover, a series of leaks have provided compelling evidence of active monitoring of the public web and government targeting of opposition figures for surveillance. Legal actions against alternative media because of their posts on blogs, Facebook and Twitter also point to active monitoring of the online sphere.

Obstacles to Access

Internet access continued to increase during this coverage period. The quality of service has improved and become more readily available with the expansion of 4G technology. However, zero-rating programs have drawn criticism over uneven access to online content and applications as the current legal framework has proven to be ineffective in defending net neutrality. Legislation approved in early 2015 has raised questions about the independence of the new regulatory body, as well as the scope of a provision that grants the government the power to take over telecommunications services in times of national emergency.

Availability and Ease of Access

Internet access in Ecuador has steadily increased in the last few years. The Pacific Caribbean Cable System (PCCS), a new high speed fiber-optic cable completed by a consortium of operators in Au-

¹ Nick Miroff, "Ecuador cuts off Internet access for WikiLeaks founder Julian Assange," *The Washington Post*, October 19, 2016, <http://wapo.st/2ejNvA6>.

gust 2015,² represents part of a larger advance in infrastructure improvements in Ecuador. As the country's fiber-optic cabling continued to expand from 45,000 km in 2015 to 59,861 km in 2016,³ PCCS is expected to multiply local internet consumption capacity by 60.⁴

As of 2015, the International Telecommunications Union (ITU) measured internet penetration in Ecuador at 48.9 percent, compared to 45.6 percent in 2014 and 35 percent in 2012.⁵ According to an Akamai report from the first quarter of 2016, Ecuador's average internet speed was 5.3 Mbps.⁶

Multiple internet subscription options are available. Broadband (commonly used in urban zones) and satellite connections (often used in rural areas) have become increasingly popular in recent years. According to the Agency for Regulation and Control of Telecommunications (ARCOTEL), 9.4 percent of the population had fixed internet subscriptions at the end of 2015, while 38 percent had mobile internet subscriptions.⁷

Although mobile phones continued to be taxed as luxury items along with other electronic devices such as computers and tablets,⁸ there were 12.8 million mobile phone subscriptions in 2015, representing 79.4 percent of the population.⁹ In December 2015, the government relaxed import quotas by allowing every user to import a phone valued up to US\$ 2,000 every year.¹⁰ For local cell phone assemblers, tariffs dropped from 3 to 1 percent. However, mobile internet penetration continued to be unevenly distributed, as the richest 20 percent of the population owned 60 percent of smartphones.¹¹ Cell phones, along with clothing, are the biggest market for contraband in the country.¹²

In early 2015, Movistar and Claro reached a deal with the government to access the radio frequency bands to improve 3G connectivity and install 4G services, in exchange for paying over US\$ 300 million and improving 3G coverage. This contract will expire in 2023 and is expected to reach more individuals than previous attempts to introduce 4G technology.¹³ Government data for 2015 shows 7.5 percent using 4G technology,¹⁴ which is available in 49.6 percent of the territory.¹⁵ These numbers

2 Sofia Ramírez, "Un nuevo cable submarino se instala," [A new undersea cable is installed], *El Comercio*, Quito, July 14, 2015, <http://bit.ly/2dv79sA>.

3 Ministerio de Telecomunicaciones y Sociedad de la Información (MINTEL), "Seguimos creciendo en el despliegue de las telecomunicaciones: Ecuador ya cuenta con 59.861 km de fibra óptica," [The deployment of telecommunications keeps growing: Ecuador already has 59,861 km of fiber optic], January 28, 2016, <http://bit.ly/1RQd8of>.

4 Vicepresidencia de la República del Ecuador, "Cable submarino de fibra óptica en su etapa final de instalación," [Undersea cable in the last stage of installation], accessed September 29, 2016, <http://bit.ly/21ctrM8>.

5 International Telecommunication Union, "Percentage of Individuals using the Internet," accessed September 29, 2016, <http://bit.ly/1cblxxY>.

6 Akamai, State of the Internet Report, Q4, 2015 report, accessed September 29, 2016, <http://akamai.me/2b5MgzU>.

7 Agencia de Regulación y Control de las Telecomunicaciones, "Servicio de Acceso a Internet," [Internet Access Service], accessed September 29, 2016, <http://bit.ly/1qcC7Xs>.

8 "Equipos tecnológicos pagan más por nuevos aranceles," [Technological devices will pay more with new duties], *El Mercurio*, January 28, 2015, <http://bit.ly/21Qjo5z>.

9 International Telecommunication Union, "Mobile-cellular phone subscriptions 2000-2015," accessed September 29, 2016, <http://bit.ly/1cblxxY>.

10 Ecuadorian Foreign Trade Commission, Resolution 049-2015, December 29, 2015, <http://bit.ly/1Jxl6zx>.

11 Jaime Albuja, Andrés Navas, David Paguay, Andrea Moreno & Pablo Nájera, "Technological GINI: a study of the inequality in Ecuador," *2015 Second International Conference on eDemocracy & eGovernment (ICEDEG)*.

12 Javier Ortega, "Poderosas mafias del contrabando penetran en Quito con celulares ilegales," [Powerful contraband mafias penetrate Quito with illegal cell phones], *El Comercio*, April 23, 2015, <http://bit.ly/1z1k4qN>.

13 Mercedes Alvaro, "Ecuador Signs 4G Contracts With America Movil, Telefonica," *The Wall Street Journal*, February 18, 2015, <http://on.wsj.com/1DsXlo9>.

14 Agencia de Regulación y Control de las Telecomunicaciones (ARCOTEL), "Servicio Móvil Avanzado," [Advanced Mobile Phone System], March 2016, <http://bit.ly/1p7oE2U>.

15 Augusto Espín, "Rendición de cuentas MINTEL 2015," [2015 MINTEL Report], March 23, 2016, <http://bit.ly/24ZRUb9>.

are expected to increase with the digital television switchover as it will free more spectrum for mobile use.¹⁶

While fixed and mobile broadband internet with low download capacity (500 Mb) is affordable for most users, Ecuador has the steepest price in the region for higher download capacity (1 GB) adjusted for purchasing power parity.¹⁷ It is unclear to what extent these plans offer full connectivity as the three mobile operators in the country sell zero-rated services in at least 67 different modalities.¹⁸ Facing increasing demand, small internet retailers provide internet access to Ecuadorians for less than US\$1 per hour.

Even though prices per Mbps for both fixed and mobile broadband dropped by 25 percent in the last year,¹⁹ socio-economic factors continued to impact internet access. Some 17.7 percent of families in urban areas had internet access compared to 8.5 percent in rural areas. Access also varies across and within provinces, as users are more concentrated in the most economically active centers. For example, in 2013, an average of 8 to 10 percent of rural households in Ecuador's Amazon and mountainous regions had internet access, and only 4 percent in the coastal region.²⁰

Ecuador has shown improvements in expanding internet access to rural areas over the past three years through programs facilitated by the Ministry of Telecommunications (MINTEL). Ecuador's state-run Infocentros—community centers with network access that began to be installed in June 2012—provide free internet in 78 percent of rural cantons in the country.²¹ Infocentros have played an important role in reducing digital illiteracy (from 21.4 percent in 2012 to 12.2 percent in 2015) by offering free workshops across the country.²² MINTEL's mobile classrooms project, intended to offer access to those without Infocentros nearby, has also benefited more than 380,000 people since its inception.²³ MINTEL and the Ministry of Education expect to provide full access to all public schools through its National School Connectivity Plan.²⁴ The National Secretariat of Higher Education has

16 A complete blackout of TV signals is programmed for the end of 2016. See: Ministerio de Telecomunicaciones y Sociedad de la Información. "Ecuadorianos deben adquirir televisores con estándar ISDBT-TB," [Ecuadorians must acquire televisions with ISDBT-TB standards], September 30, 2014, <http://bit.ly/1QyBCAJ>.

17 María F. Viences & Fernando Callorda, "La brecha digital en América Latina: precio, calidad y asequibilidad de la banda ancha en la región," [The digital divide in Latin America: price, quality and affordability in the region], *Diálogo regional sobre sociedad de la información*, January 2016, p. 18, <http://bit.ly/1UG7nJP>.

18 Apertura Radical, "Carta a MINTEL y SENESCYT: Para favorecer la innovación deben modificar la Ley de Telecomunicaciones," [Open Letter to MINTEL and SENESCYT: In order to promote innovation you must modify the Telecommunications Law], April 1, 2015, <http://bit.ly/1R06yMq>.

19 María F. Viences & Fernando Callorda, "La brecha digital en América Latina: precio, calidad y asequibilidad de la banda ancha en la región," [The digital divide in Latin America: price, quality and affordability in the region], *Diálogo regional sobre sociedad de la información*, January 2016, <http://bit.ly/1UG7nJP>.

20 Ministerio de Telecomunicaciones y Sociedad de la Información, "Análisis del porcentaje de hogares con acceso a internet," [Analysis of the percentage of households with internet access], March 2015, <http://bit.ly/1RMVwXO>.

21 There are 833 Infocentros with over 6 million visits since they were first implemented in 2010. See: Ministerio de Telecomunicaciones y Sociedad de la Información, "Infocentros comunitarios," [Community infocenters], accessed March 4, 2016, <http://bit.ly/1iPMYxq>.

22 Augusto Espín, "Rendición de cuentas MINTEL 2015," [2015 MINTEL Report], March 23, 2016, <http://bit.ly/24ZRUB9>.

23 "El éxito de los Infocentros Comunitarios y las Aulas Móviles," [The success of community infocenters and mobile classrooms], April 9, 2014, <http://bit.ly/24JaHbv>.

24 Ministerio de Telecomunicaciones y Sociedad de la Información, "Conectividad escolar," [Scholar connectivity], accessed March 4, 2016, <http://bit.ly/1OVJDKB>.

also taken steps to provide free Wi-Fi in public and private universities.²⁵ The number of cybercafes has multiplied since 2009, from 1,355 to 2,667 as of January 2016.²⁶

Restrictions on Connectivity

Ecuador's physical infrastructure is not highly centralized. The government does not place limits on bandwidth, nor are there reports of control over infrastructure, although a provision in the 2015 Organic Law of Telecommunications grants the president the power to unilaterally take over telecommunications services in times of national emergency.²⁷ Civil society groups have raised concerns about the scope of this provision and its potential abuse by the government because of its vague standards and lack of oversight by an independent and impartial court.²⁸

In June 2015, protesters against the government in Quito and Guayaquil encountered service problems. Explanations for these problems range from network saturation to the possible presence of cell phone jammers.²⁹ Local police did report the use of this equipment during the Pope's visit in July 2015,³⁰ but it is unclear if this equipment has been used to prevent demonstrators to communicate.

On December 3, 2015, during popular riots over constitutional reforms proposed by the government, several users reported problems accessing Twitter images across the country.³¹ The blocking did not affect all users in the same way nor was it related to a specific ISP, as was the case of Venezuela in 2014.³² The problem was initially dismissed as a technical failure on Twitter's end. However, minutes later the company declared having investigated the issue without discovering any technical problems on their end.³³ Independent researchers performing tests on the servers that provided Twitter images to the country found different responses within the Ecuadorian territory.³⁴ According to Aldo Cassola, a network security researcher, if Twitter's performance was not compromised, this could either be a case of routing issues or potentially the effect of a Distributed Denial of Service (DDoS) attack to Twitter's Content Delivery Network.³⁵

25 "El Código Ingenios propone redes gratuitas de internet en las universidades," [The Ingenios Act proposes free internet network in universities], *El Telégrafo*, January 10, 2016, <http://bit.ly/1PnG94e>.

26 Cybercafes initially provided internet access in commercial zones but adjusted their market as the demand shifted towards low and middle income users around 2011. See: "Cibers crecen aliados a tareas escolares y cabinas telefónicas," [Cybercafes grow along with schoolwork and payphones], *El Universo*, June 27, 2011, <http://bit.ly/1oWW6IB>; Total number of cybercafes obtained from: Agencia de Regulación y Control de las Telecomunicaciones (ARCOTEL), "Servicio de Acceso a Internet," [Internet Access Service], <http://bit.ly/2dNKJgW>.

27 Asamblea Nacional República del Ecuador, Ley Orgánica de Telecomunicaciones [Telecommunication Law], <http://bit.ly/2fsPIKj>.

28 Katitza Rodriguez, "Leaked Documents Confirm Ecuador's Internet Censorship Machine," Electronic Frontier Foundation, April 14, 2016, <http://bit.ly/1W144NE>.

29 Alfredo Velazco, "The Internet, a Staging Post for Protests in Ecuador, is under threat," Global Voices, June 28, 2015, <http://bit.ly/1QObmyR>; See also: Aldo Cassola, Twitter post, June 13, 2015, 7:50 a.m., <http://bit.ly/2ej6zhW>.

30 Juan Carlos Mestanza y Javier Ortega, "Las Fuerzas Armadas y la Policía, listas para dar seguridad al Papa," [The Military and The Police ready to protect the Pope], *El Comercio*, July 3, 2015, <http://bit.ly/1YACaYM>.

31 "Usuarios de Twitter denuncian que sus fotos no se visualizan en Ecuador," [Twitter users denounce they cannot visualize their pictures in Ecuador], *El Comercio*, December 3, 2015, <http://bit.ly/1XCITJw>.

32 The Associated Press, "Twitter reports image blocking in Venezuela," *USA Today*, February 14, 2014, <http://usat.ly/1pwXB0R>.

33 Twitter @Policy, Twitter post, December 3, 2015, 3:24pm, <http://bit.ly/2f5ldB4>.

34 Servers 192.229.163.25 and 104.244.43.103 were accessible from the U.S. but connection timed out when connecting from Ecuador. See: Ivan Muela, "¿Bloqueo de imágenes de TWITTER en Ecuador?," [Blocking of Twitter images in Ecuador?], December 3, 2015, <http://bit.ly/1QGjh4M>.

35 Aldo Cassola, Computer Scientist and Professor, Universidad San Francisco de Quito, interview on March 6, 2016.

ICT Market

Ecuador has 14 major internet service providers (ISPs) covering 99 percent of users and 329 small ISPs providing access to the rest of the market. State-owned National Telecommunications Corporation (CNT) dominated the fixed-line market, with over 55 percent of subscriptions, followed by Sura-tel (13.3 percent) and Telconet (10.3 percent). Mobile internet service providers, on the other hand, are an oligopoly: Conecel (Claro) represented 58 percent of active cellular accounts, Otecel (Movistar) 32 percent, and CNT, 10 percent.³⁶ This concentration of suppliers does not negatively impact users, according to the National Superintendence of Market Power Control.³⁷

In February 2015, the New Telecommunications Act entered into force, allowing the government to impose specific obligations to dominant operators with high market power based on their income; and to impose fines depending on the number of users.³⁸ The amount of such fines also experienced a tenfold increase,³⁹ collecting US\$ 25 million through October 2015.⁴⁰

There have been no reported government restrictions for new companies in the ICT sector. However, it has become difficult for small entrepreneurs to start an ISP in highly populated areas, mainly due to the number of competitors. As a result, they have migrated to outlying provinces.⁴¹ Registration with ARCOTEL, although a simple process, is mandatory for cybercafes.

Regulatory Bodies

In February 2015, Ecuador's National Assembly passed the Organic Law of Telecommunications. Not to be confused with the similarly named Communications Law passed in 2013, the Organic Law on Telecommunications radically changed the regulation of the telecommunications sector. The new telecommunications law created a regulatory body, the Agency for the Regulation of Telecommunications (Arcotel), which is attached to the Ministry of Telecommunications and is responsible for the technical aspects of administration, regulation, and control of the telecommunications sector and the radio-electric spectrum.⁴²

Arcotel's directors are all appointed directly by the president, which may undermine its independence.⁴³ Arcotel's effort to redistribute radio-electric frequencies has notably been criticized for being politicized and lacking transparency. In response to the removal of its frequency, the director

36 An ISP was considered "major" if it had at least 50,000 users. See: Agencia de Regulación y Control de las Telecomunicaciones, "Servicio de Acceso a Internet," [Internet Access Service], accessed January 2016, <http://bit.ly/1qcC7Xs>.

37 Superintendencia de Control de Poder de Mercado, Expedientes SCPM-CRPI-2015-020 (May 4, 2015) and SCPM-CRPI-2015-052 (September 30, 2015).

38 América Móvil, "Annual Report," December 31, 2104, <http://bit.ly/1pqOpel>.

39 "Mayor multa para 'malos' operadores económicos," [Bigger fine for 'bad' economic operators], *El Universo*, December 14, 2015, <http://bit.ly/1NPojKS>.

40 Sofía Ramírez, "USD 420 millones recaudó la Arcotel seis meses del 2015," [USD 420 million collected by Arcotel during six months in 2015], *El Comercio*, October 7, 2015, <http://bit.ly/1N1G7jZ>.

41 Rodrigo Barahona, Former Internet Service Provider, Interview March 14, 2016.

42 Asamblea Nacional Republica del Ecuador, Ley Orgánica de Telecomunicaciones [Telecommunication Law]. <http://bit.ly/1Kvdp7W>.

43 Leticia Pautasio, "Ecuador: Ley de Telecomunicaciones entra en vigencia y Arcotel inicia sus funciones," [Ecuador: Telecommunications Law enters into force and Arcotel starts its functions], *TeleSemana.com*, March 6, 2015, <http://bit.ly/22Jajl>.

of the National Union of Journalists claimed this was an act of retaliation for their “firm and critical stance [against] policies implemented by the government.”⁴⁴

Efforts by access providers and other internet-related organizations to establish self-regulatory mechanisms are allowed and, to a certain extent, promoted. Examples of this include the public assistance to develop public and private Computer Security Incident Response Teams (CSIRT) by EcuCERT; the local internet exchange point (NAP.ec) managed by AEPROVI, and the Ecuadorian IPv6 Task Force, among others. The allocation of digital assets, such as domain names or IP addresses, are not controlled by the government, nor are they allocated in a discriminatory manner.

Limits on Content

As the online public sphere has gained prominence as a forum for political and social discussion in Ecuador, the government has sought to exert control over content through a variety of mechanisms. The use of copyright law to censor critical content has become common practice, and public institutions have started to directly issue copyright infringement notices to take down content. Social media have especially been at the center of efforts to manipulate public opinion online in favor of the government, as journalists and government critics suffered retaliation for sensitive posts.

Blocking and Filtering

The government does not engage in systematic blocking or filtering of content in Ecuador. YouTube, Facebook, Twitter, and blog-hosting services are freely available. There were no reports of the government blocking tools enabling circumvention of online filters and censors.

Reports have pointed to past instances of blocking of specific domains at government request. An allegedly leaked internal memorandum from Telefónica (Movistar) noted an instance in 2014 when the Ecuadorian Association of Internet Providers (AEPROVI), which controls over 95 percent of the country’s internet traffic, blocked access to specific domains at the government’s request.⁴⁵ While the authenticity of the memorandum has not been confirmed by Telefónica, public documentation from SUPERTEL (now ARCOTEL) shows that the government and private ISPs have collaborated in the past to block specific domains to combat piracy,⁴⁶ and that AEPROVI maintains a cooperation agreement with ARCOTEL since 2012.⁴⁷ The text of the agreement remains unknown to the public, and it is unclear what mechanisms ARCOTEL and AEPROVI use to block internet domains. Likewise, mechanisms for public accountability are not in place or have not been disclosed.

44 Fundamedios, “Arcotel permanently removes independent journalists association’s frequency,” December 12, 2015, <http://bit.ly/1PcWbxg>; Plan V, “La Arcotel y los riesgos de la redistribución de frecuencias,” [Arcotel and the risks of frequency redistribution], February 22, 2016, <http://bit.ly/1WFXJW1>.

45 Apertura Radical, “El gobierno ecuatoriano y la Asociación de Proveedores de Internet trabajan juntos para bloquear el acceso a páginas web,” [The Ecuadorian government and the Ecuadorian Association of Internet Providers (AEPROVI) collaborate to block access to specific websites], <http://wp.me/p3jTIV-8t>.

46 Superintendencia de Telecomunicaciones, “Informe rendición de cuentas 2014,” p.64, [2014 Supertel Report], January 13, 2015, <http://bit.ly/22ufifv>.

47 Convergencia Latina, “La SUPERTEL firmará hoy un convenio de cooperación con la asociación de ISPs” [SUPERTEL will sign cooperation agreement today with ISP association], April 17, 2012, <http://bit.ly/1XNICxV>.

Content Removal

The use of copyright law to censor online content has been widely recognized for years in Ecuador. Tweets, images, blog posts, and videos were taken down as the result of complaints made by Ares Rights on behalf of Ecuadorian institutions, including the National Secretariat of Communications (SECOM), the National Secretariat of Intelligence (SENAIN), and the state television network (ECTV).⁴⁸

Ares Rights, a company based in Spain, claims that the country's privacy laws forbid them from disclosing any document detailing the relationship with its clients.⁴⁹ While the government has not confirmed its participation in these requests, it has not acted against the abuses of others on the government's behalf either.⁵⁰

Moreover, public institutions have started to make their own requests to remove content for allegedly violating copyright protections. In March 2015, SECOM sent a letter to Fundamedios, a freedom of expression advocacy organization, stating that they would take legal actions if the latter would not remove the distinctive image of the National Secretary of Communication from one of their tweets.⁵¹ Investigative portals such as *Focus Ecuador* and *Mil Hojas* have also been targeted with complaints from SECOM,⁵² and the institution has even added a copyright symbol to the Presidency's official YouTube channel.⁵³

In December 2015, Fundamedios received a notice from CloudFlare and Amazon Web Services about new complaints made by Ares Rights on behalf of SECOM.⁵⁴ Ecuador Transparente, a website operated by the Associated Whistleblowing Press, was also targeted by Ares Rights after publishing secret documents that contained information about political spying. The request was made on behalf of Rommy Vallejo, head of SENAIN.⁵⁵

Besides the use of copyright law to target critical content online, a study released in August 2016 revealed the growing number of takedown requests for alleged violations of Twitter rules, such as the publication of private information. Between April and July 2016, Fundamedios recorded 806 takedown requests against 292 Twitter accounts. Approximately 30 of these accounts, which corre-

48 Maira Sutton, "State Censorship by Copyright? Spanish Firm Abuses DMCA to Silence Critics of Ecuador's Government," EFF, May 15, 2014, <http://bit.ly/1KGVJY>; See also: Alexandra Ellerbeck, "How U.S. copyright law is being used to take down Correa's critics in Ecuador," Committee to Protect Journalists, January 21, 2016, <http://bit.ly/1Lu5Uoj>.

49 Adam Steinbaugh, "Ares Rights: Our Acts On Behalf of Ecuador Are Private," December 19, 2014, <http://bit.ly/1ZpH37t>.

50 Enrique Arosemena, former director of the State-owned TV station 'Ecuador TV,' denied a contract with Ares Rights but insinuated that Ares Rights was using the name of Ecuador TV to censor online. In 2014, he announced legal actions against the firm but they never materialized. See: "Arosemena: 'EcuadorTV no tiene contrato con Ares Right,'" [Arosemena: EcuadorTV does not have a contract with Ares Rights], *La República*, April 28, 2014, <http://bit.ly/1T5ys9b>.

51 "Ares Rights dice que los documentos sobre la SENAIN filtrados por Ecuador Transparente son reales," [Ares Rights: Senain documents leaked by Ecuador Transparente are real], *Apertura Radical* (blog), December 28, 2105, <http://bit.ly/1Vi2Mxj>.

52 Fundamedios, "Gobierno realiza tres denuncias más para deshabilitar portal de investigación Focus Ecuador" [Government issues three more complaints to disable the investigative portal Focus Ecuador], May 20, 2016, <http://bit.ly/25c52Kg>; See also: Fundamedios, "Secom denuncia a portal Mil Hojas por uso de documentos donde aparece el logo de 'la marca país'" [SECOM denounces Mil Hojas for using documents with the "country brand"], June 3, 2016, <http://bit.ly/1PaOh9i>.

53 "Presidencia de la República del Ecuador ©SECOM" [Presidency of the Republic of Ecuador © SECOM], YouTube channel, accessed October 18, 2016, <http://bit.ly/2eh4TSx>.

54 Alexandra Ellerbeck, "How U.S. copyright law is being used to take down Correa's critics in Ecuador," Committee to Protect Journalists, January 21, 2016, <http://bit.ly/1Lu5Uoj>.

55 "Ares Rights dice que los documentos sobre la SENAIN filtrados por Ecuador Transparente son reales," [Ares Rights: Senain documents leaked by Ecuador Transparente are real], *Apertura Radical* (blog), December 28, 2105, <http://bit.ly/1Vi2Mxj>.

sponded to antigovernment users with high numbers of followers, were suspended after receiving repeated complaints. Ares Rights continued to be behind many of these requests.⁵⁶

Showcasing efforts to actively monitor and remove specific content on social media, in September 2015, *Buzzfeed* uncovered a US\$4.7 million contract dating from 2012 between the Mexican company Emerging MC and SENAIN, in which the former was required to “predict, anticipate and eliminate” material on social networks that “damage or may damage the integrity of persons, public or private institutions (...) promote or incite violence or acts contrary to the public welfare and morality (...) represent a plagiarism of identity [and] threats, identity theft, defamation, slander and insults.” *Buzzfeed* also published the subsequent payments and the company’s report on removed content.⁵⁷

The media and communications regulator, the Superintendency of Information and Communications (Supercom), has aggressively pursued print media (including all media with an online presence)⁵⁸ under accusations of unbalanced reporting and “media lynching”—an allegation that is often applied to investigative reporting in Ecuador. The Communication Law passed in 2013 grants Supercom the power to audit, intervene, and control all information and media, as well as to enforce regulations governing information and communications. Corrections, sometimes scripted by Supercom, are often issued to media outlets on the basis that articles fail to provide appropriate context. However, civil servants oftentimes avoid commenting on stories prior to publication.⁵⁹

Additionally, the law holds websites liable for content posted on their sites by third parties unless such parties are identifiable through personal data such as their national ID number. News outlets that have allowed readers to post comments critical of the government on their websites have faced removal requests, and others have closed their comments section entirely.

Media, Diversity, and Content Manipulation

Although the 2013 Communications Law gives the government broad authority to censor media content, Supercom has especially used the law to sanction privately-owned traditional media outlets, which are mostly offline. The government’s broader restrictions on traditional media outlets likely affect digital content associated with these outlets both by encouraging self-censorship and by restricting financial resources for independent media.

Mainstream media outlets such as *El Comercio*, *El Universo* or *Expreso* have lawyers that review “sensitive” notes before publication. Cases of corruption and investigative journalism are covered with extreme caution. *El Comercio*, for example, failed to publish a seven-series report on Hacking Team. Activists have also turned down invitations from mass media to talk about the subject after suffering harassment from anonymous sources.⁶⁰ Attempts to reprimand progovernment media under current

56 Fundamedios, “806 denuncias en contra de 292 cuentas de Twitter, revela monitoreo” [806 complaints against 292 twitter accounts, monitoring reveals], August 9, 2016, <http://bit.ly/2b1JhKg>.

57 James Ball & Paul Hamilos, “Ecuador’s President Used Millions Of Dollars Of Public Funds To Censor Critical Online Videos,” *BuzzFeed*, September 24, 2015, <http://bzfd.it/1Lu6kee>.

58 Follow-up legislation in 2014 exempted bloggers and social media users from regulation under the Communications Law, but extended the law to cover “all media with an online presence” (see Legal Environment).

59 Fundamedios, “Pedidos de rectificación y réplica: el mecanismo favorito de los funcionarios estatales para imponer su verdad,” [Requirements for corrections and response: civil servants’ favorite mechanism to impose the truth], October 15, 2015, <http://bit.ly/1X6l3gU>.

60 Andrés Delgado, “El miedo de vigilar a los vigilantes,” [The fear of watching the watchers], blog post, January 15, 2016, <https://eff.org/r.xdr2>

legal provisions have been less successful.⁶¹ “Whether you like it or not, you self-censor, you are very careful about your words and the headlines, often we would even ask each other how to redact a tweet,” confessed a journalist working for a private newspaper, who requested anonymity.⁶²

As the Communication Law gained momentum, print journalists posting sensitive content on social media have also been reprimanded, further contributing to self-censorship. The former political editor for *El Comercio*, Martín Pallares,⁶³ was fired by the newspaper after 13 years of service for failing to comply with the paper’s guidelines for “good practices on social networks.”⁶⁴ Similarly, Orlando Perez, editorial director of *El Telegrafo*, has reproached his columnists and even journalists working at other outlets for social media posts that were allegedly untruthful or “harmed the newspaper.”⁶⁵

Although the Communications Law exempts social media users from sanctions, the government has issued gag orders during states of emergency under Article 8 of the Telecommunications Act.⁶⁶ On August 15, 2015, President Rafael Correa signed a decree forbidding “the dissemination of unauthorized information [regarding the eruption of Cotopaxi Volcano] by any means of social communication, whether public or private, or via social media.”⁶⁷ One month later, Minister of Security Cesar Navas announced that a first complaint will be filed with the Attorney General’s Office against certain Facebook users for publishing “unscrupulous” opinions.⁶⁸

New media outlets have emerged and thrived online, offering a wide range of political and social viewpoints.⁶⁹ However, the online media landscape remains highly distorted by state-owned or state-managed mass media outlets, which often use unidentified sources in order to propagate stories. On June 24, 2015, state-operated TV stations EcuadorTV, GamaTV and TC Television, broadcasted a video stitching together separate conversations from two private group chats on Telegram and WhatsApp in order to claim that a “soft coup d’état” was being planned by “the wealthiest families in Quito.” The group chat members were conversing about the protests against the government that took place at the end of that month and, according to one of the victims of the privacy breach, the chats were manipulated and juxtaposed to change the narrative.⁷⁰ The media refused to turn

61 Superintendencia de la información y la comunicación, “SUPERCOM desecha denuncia contra medios y entidades relacionadas con comunicación,” [SUPERCOM rejects complaint against media and communication related entities], April 1, 2015, <http://bit.ly/1RmtTF9>; See also: “Ley de comunicación no aplica a enlaces sabatinos de Correa,” [Communication Law does not apply to Correa’s weekly broadcasts], Ecuador Times AR, June 4, 2014, <http://bit.ly/1PsA4Da>.

62 Online interview, February 11, 2016.

63 Martín Pallares, “Ecuador’s Political Eruption,” *The New York Times*, September 1, 2015, <http://nyti.ms/1o5i1g4>.

64 Fundamedios, “Journalist fired for his comments on Twitter,” August 20, 2015, <http://bit.ly/1SgDttt>.

65 Fundamedios, “Columnist reports censorship by State operated newspaper,” August 5, 2015, <http://bit.ly/1UPUIVC>.

66 Understood as “aggression; international or internal armed conflict; serious internal disturbances, public calamity; or natural disaster or national, regional or local emergency.”

67 Presidencia de la República de Ecuador, Decree 755, August 15, 2015, <http://bit.ly/1PwqAa7>.

68 Fundamedios, “Ministro anuncia inicio de procesos legales contra personas que divulgaron rumores sobre el volcán Cotopaxi en redes sociales” [Minister announces legal procedures against people that disseminated rumors on the Cotopaxi volcano on social networks], September 22, 2015, <http://bit.ly/1NRR4rd>.

69 During this period of coverage for example, after only two months of activity the website 4pelagatos.com, which is operated by journalists Roberto Aguilar, Martín Pallares, José Hernández and social media specialist Juan Gabriel Gonzalez, best known as CrudoEcuador, received nearly two million visits from more than half a million unique users. See: 4Pelagatos, “Gracias a nuestros lectores,” [Thank you to our readers], March 20, 2016, <http://bit.ly/21CuAN2>.

70 Rebeca Morla, “Correa Officials Thumb Their Noses at Their Own Communications Law,” *PanamPost*, July 7, 2015, <http://bit.ly/21HhezH>.

over any information about the video (which first appeared online) or to allow the victims to explain themselves.⁷¹

Several reports on state-sponsored troll farms in Ecuador also reveal efforts to skew public opinion in favor of the government.⁷² According to Catalina Botero, former Special Rapporteur for Freedom of Expression for the Inter-American Commission on Human Rights, investigations have identified the IP addresses of these computers in government offices.⁷³ Private firms like Emerging MC have also been implicated in the manipulation of social media content (See Surveillance, Privacy, and Anonymity).

While there is a general mandate to protect Net Neutrality in the Telecommunications Act—outlined in the objectives (Article 3) and principles (Article 4 and 66) of the Law—Article 64 allows ISPs to establish “tariff plans consisting of one or more services, or for one or more products of a service, in accordance with his or her authorization certificates.” The rule book for the TelCo Act not only missed a clear definition of net neutrality but reaffirmed that the only limitation for tariff plans was the requirement for ISPs to clearly state the limitations of “any discounts, promotions or bonuses for purchasing services.”⁷⁴

Digital Activism

Social media is paramount to the organization of protests in Ecuador. In 2015, proposed economic measures and constitutional reforms—notably an amendment to establish communication as a public service—generated huge public outcry (see Legal Environment). The website *lasremiendas.com* and the hashtag #ArchivenLasEnmiendas (“File the amendments”) were widely used to highlight dissatisfaction with the proposals. On June 8, 2015, Congressman Andrés Páez posted a YouTube video on his Facebook page calling for a rally outside Quito’s airport, which went viral and reached thousands of views in a few days.⁷⁵ A demonstration called “Black Sunday” was held the following week.⁷⁶

Right after the 7.8 earthquake that hit Ecuador on April 16, 2016, killing 661 people and injuring tens of thousands, a government imposed media blackout rendered social media the main source of information for victims and onlookers alike.⁷⁷ In the weeks after the tragedy, volunteers organized themselves through social media, mapping affected zones and gathering further volunteers, money and equipment to help those affected. Live reports of lost and found people, online fundraising campaigns and automatic alerts were all crucial to recovery efforts.

Digital activism, however, does not always produce concrete results. After the publication of leaked

71 TV channels refused to provide information about how they got the information and to allow Valdivieso his right to respond, as mandated by the Communications Law. Ecuador Inmediato, “Andrés Valdivieso sobre chats presuntamente conspirativos: De la mentira se ha pasado a algo peor, el montaje (AUDIO),” [Andrés Valdivieso about allegedly conspiring chats: From lies we have moved to something worse], July 4, 2015, <http://bit.ly/1q2qRg8>.

72 Fundación 1000 hojas, “Troll center: derroche y acoso desde las redes sociales” [Troll center: waste and harassment on social media], <http://bit.ly/1xwV6yx>; See also: Samuel Woolley, “#HackingTeam Leaks: Ecuador is Spending Millions on Malware, Pro-Government Trolls”, August 4, 2015, <http://bit.ly/2cUSYMI>.

73 “Catalina Botero compara acciones de Bukele con Correa en Ecuador,” *La Prensa Gráfica*, February 19, 2016, <http://bit.ly/1pVJfaX>.

74 Andrés Delgado, “The Final Blow to Net Neutrality in Ecuador,” January 3, 2016, <http://bit.ly/1Pheecy>.

75 Andrés Páez, YouTube channel, video statistics through March 25, 2016, <http://bit.ly/2fp15Bp>.

76 Focus Ecuador, “Personajes del año 2015,” [People of the Year 2015], December 15, 2015 <http://bit.ly/1SfWOrW>.

77 4 Pelagatos, “El terremoto cuarteó la comunicación correista,” [The earthquake cracked the government’s communication], April 16, 2016, <http://bit.ly/GUW99Z>.

emails that linked Hacking Team to the National Secretariat of Intelligence (SENAIN), several organizations published a statement in defense of privacy that was disseminated through several websites.⁷⁸ While they managed to gain public notoriety, trending on Twitter on July 13 with #PrivacidadYA, this did not lead to physical mobilizations or public protests.

Violations of User Rights

The country faces several threats to free expression, including criminal provisions against libel, government regulation and oversight of media content, and concerns about judicial independence. Recent leaks have shed light on the extralegal monitoring of environmental activists, politicians and journalists, as well as on the role of the National Secretariat of Intelligence beyond its stated mission. Harassment and threats against social media users have become common place, and in some cases have also taken place offline.

Legal Environment

A lack of legislation specifically targeting online speech has allowed journalists and bloggers to enjoy relatively higher levels of freedom online than offline. 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 freedom of expression (Article 384). The latter, however, was amended by the National Assembly in December 2015 to include the mandate that "communication as a public service will be provided through public, private and community media" (emphasis added). The move to categorize communication as a public service has especially raised criticism for undermining freedom of expression as a human right and opening the way for broad government regulation of media outlets.⁷⁹ Although Article 71 of the Organic Law of Communication, adopted in 2013, already included similar wording on communication as a public service, a constitutional amendment would cement and strengthen this principle.⁸⁰

The 2013 Communication Law calls for the establishment of a government committee to regulate media and issue civil and criminal penalties to journalists or media outlets that fail to report in a manner that the regulator deems fair and accurate. Although Article 4 states that the law "does not regulate information or opinions expressed by individuals on the internet," the definition of social media outlets in Article 5 includes "content which can be generated or replicated by media outlets on the internet." Follow-up legislation in 2014 exempted bloggers and social media users from regulation under the Communications Law, but expanded the definition of "mass media" to include "those [websites] that operate on the internet, whose legal status has been obtained in Ecuador and distribute news and opinion content."⁸¹

78 David Bogado, "Hacking Team y Ecuador: Pronunciamiento En Defensa De La Privacidad," [Hacking Team and Ecuador: a statement in defense of privacy], Electronic Frontier Foundation, July 13, 2015, <http://bit.ly/1J4t7pc>.

79 Silvia Higuera, "Ecuador declares communication "a public service"; Fundamedios considers it a "serious setback"," Journalism in the Americas, December 8, 2015, <http://bit.ly/1OS1mWp>; See also: Fundamedios, "Assembly approves amendment to constitution that makes communication a public service," December 2, 2015, <http://bit.ly/1NtiDpz>; John Otis, "How Ecuador's plans to make communications a public service is threat to free press," Committee to Protect Journalists (blog), January 20, 2015, <http://bit.ly/1PEHiKg>.

80 Asamblea Nacional, Ley Orgánica de Comunicación [Organic Law of Communication], June 25, 2013, <http://bit.ly/1pgZrCC>.

81 Decree 214, Art. 3, January 27, 2014, <http://bit.ly/208xLfh>; See also: Alianza Regional, "Artículo XIII: Informe sobre control estatal de las redes sociales" [Article XIII: Report on state control of social networks], May 2016, <http://bit.ly/1rQZOWx>.

Changes to the penal code that entered into force in August 2014 eliminated criminal charges for insult, but retained them for slander and libel.⁸² Article 179 restricts protections for whistleblowers by establishing a prison sentence of six months to one year for any person “who, by virtue of his/her state or office, employment, profession, or art, has knowledge of a secret whose divulgement might cause harm to another and reveals it.” The article makes no exception for revealing information in the public interest. Article 229 places further restrictions on divulging information by banning the revelation of registered information, databases, or archives through electronic systems in a way that violates the intimacy or privacy of someone else, with no exceptions for whistleblowers or journalists. Article 307 establishes a penalty of five to seven years in prison for creating economic panic by “publishing, spreading, or divulging false news that causes harm to the national economy in order to alter the prices of goods.”

In early 2015, Carlos Ochoa, the country’s Information Superintendent, declared that reforms are being prepared to amend the Communication Law, but said that new regulations on social media would need further public debate across the country before being considered.⁸³ Regulation on the protection of personal data are also being developed.⁸⁴ Finally, the National Assembly has presented a new bill that would allow the takedown of websites without a court order.⁸⁵

The lack of judicial independence is another ongoing concern. A 2014 report from the Due Process of Law Foundation has noted how “Ecuador’s justice system is currently being subjected to political usages that seriously jeopardize judicial independence in those cases where the government’s interests are at stake.”⁸⁶

Prosecutions and Detentions for Online Activities

Lawsuits for defamation have increasingly threatened online users. During the coverage period, two politicians—Sebastian Cevallos and Jeannine Cruz Vaca—were sentenced to 15 and 30 days in jail, respectively, for “defamatory” content posted on Twitter under article 396 of the Criminal Code, which punishes “expressions that discredit or dishonor.” Bolívar Castillo, mayor of Loja and an ally of the government, said that he sued Jeannine Cruz to set a precedent. Cruz had posted a video and tweet criticizing the mayor’s management of a water sanitation project.⁸⁷ Previously Castillo had sued *La Hora* newspaper because they “failed to provide in-depth coverage” of one of his public speeches.⁸⁸ The suit against Cevallos was filed by a civil servant and niece of the former labor minister, after Cevallos tweeted about an alleged case of nepotism.⁸⁹

82 Ministerio de Justicia, Derechos Humanos y Cultos, Código Orgánico Integral Penal, 2014, <http://bit.ly/1juCXok>.

83 “Carlos Ochoa: Regulación a redes sociales necesita antes un gran debate en el país,” [Carlos Ochoa: Social media regulation requires a big national debate], *El Universo*, February 11, 2015, <http://bit.ly/1Rtn30v>.

84 The project has not been made public, its focus and scope are unknown. See: Derechos Digitales, “Latin America in a Glimpse,” November 6, 2015, <http://bit.ly/1REQWOD>.

85 Usuarios Digitales, “Boletín de Prensa: Proyecto de Ley orgánica de protección de los datos personales ¿Impactará la libertad de expresión y flujo de información?” [Press Release: Law Proposal for Protection of Personal Data, Will it impact freedom of expression and the free flow of information?], September, 19, 2016, <http://bit.ly/2dBdz5T>.

86 Luis Pásara, “Independence in the Ecuadorian justice reform,” Due Process of Law Foundation, July 2014, <http://bit.ly/199TIGu>.

87 Lineida Castillo, “2 personas sentenciadas en 52 días por comentar en Twitter,” [Two people sentenced in 52 days for commenting on Twitter], *El Comercio*, January 6, 2016, <http://bit.ly/1PMKkLB>.

88 Fundamedios, “Mayor reports newspaper that failed to provide in depth coverage,” May 1, 2015, <http://bit.ly/1q2rHto>.

89 Cuenca: político condenado a 15 días de cárcel por denunciar presunto caso de nepotismo en Twitter [Cuenca: politician condemned to 15 days in jail for denouncing alleged case of nepotism on Twitter], *La Hora*, November 11, 2015, <http://bit.ly/2dybSaJ>.

Online writers have also incurred high penalties in civil libel cases. On July 22, 2015, the National Court of Justice ordered a blogger to pay a fine of US\$ 46,000 for “moral damage” against President Correa. Blogger Miguel Palacios Frugone had previously sued President Correa for libel after the president called him a “rapist.” President Correa responded in kind by countersuing Palacios for defamation over 20 articles that he produced on his blog “Desde mi Trinchera” (“From my Trench”).⁹⁰

In June 2015, journalist Roberto Aguilar from EstadoDePropaganda.com, a blog critical of the government’s control over mass media, was sued on charges of defamation by Fernando Alvarado, the legal representative of the National Secretariat of Communications.⁹¹ The complaint was finally dismissed five months later.

The Security Coordinating Minister, César Navas, also announced the beginning of legal proceedings against social media users who posted “unscrupulous” comments in the aftermath of the Cotopaxi volcanic eruption in August 2015.⁹² A presidential decree issued on August 15 had forbidden “the dissemination of unauthorized information by any means of social communication, whether public or private, or via social media.”⁹³

Surveillance, Privacy, and Anonymity

The National Secretariat of Intelligence (SENAIN) is in charge of producing “strategic SIGINT [signals intelligence] for the integral security of the state, society and democracy.” Created in 2009 by a presidential decree, SENAIN has continuously expanded its capacities and budget, reaching US\$ 58 million in 2015. Most of the budget has been allocated to “special expenses for communications and counterintelligence.”⁹⁴ A secret document published by the whistleblowing website Ecuador Transparente in June 2014 outlines what SENAIN considered as “risk factors and threats against democratic stability.” These included political parties,⁹⁵ “local movements”, mass media, private banks, chambers of commerce, environmental and indigenous organizations, rural communities and unions.

In July 2015, Italian spyware company Hacking Team was compromised and their financial and commercial transactions exposed. While the National Secretary of Intelligence, Rommy Vallejo, quickly noted that SENAIN had no contractual relationship with Hacking Team,⁹⁶ leaked documents have suggested otherwise and researchers have sought to establish a connection. Firstly, National Representative Lourdes Tiban held a press conference showing documents (from February 2013) previously leaked by Anonymous Ecuador, in which the former National Secretariat of Intelligence, Pablo

90 Belén Marty, “Rafael Correa Fines Columnist for Libel and Calls Him a Rapist,” PanAm Post, July 29, 2015, <http://bit.ly/1OLIF9g>; “Miguel Palacios sobre sentencia a favor del presidente Correa: ‘Me siento una hormiga enfrentando a King Kong,’” *El Comercio*, July 27, 2015, <http://bit.ly/1OLnTFA>.

91 Fundamedios, “Journalist Roberto Aguilar is called to make judicial confession at the request of Communication Secretary,” June 25, 2015, <http://bit.ly/1NkR53D>.

92 Fundamedios, “Ministro anuncia inicio de procesos legales contra personas que divulgaron rumores sobre el volcán Cotopaxi en redes sociales” [Minister announces legal procedures against people that disseminated rumors on the Cotopaxi volcano on social networks], September 22, 2015, <http://bit.ly/1NRR4rd>.

93 Presidencia de la República de Ecuador, Decree 755, August 15, 2015, <http://bit.ly/1PwqAa7>.

94 Secretaría Nacional de Inteligencia, “Programación Anual de la Política Pública,” [Annual Program for Public Policy], February 11, 2015, <http://bit.ly/1pQ7SG2>.

95 Cited as right-wing political parties are: PSC-MG, PSP, CREO, Concertación and SUMA. Cited as left-wing parties are: MPD, Pachakutik, certain factions of the socialist party. See: Ecuador Transparente, “Reporte de la Inteligencia Ecuatoriana (SENAIN) sobre factores de riesgo y amenazas a la estabilidad democrática,” [Report by Ecuadorian Intelligence (SENAIN) about risk factors and threats to democratic stability], December 28, 2015, <http://bit.ly/1Q3yJ6v>.

96 Fundamedios, “Senain warns it will take legal action against those who release information linking it to hacking team,” July 16, 2015, <http://bit.ly/1XVLaxm>.

Quezada, authorized Illuminati Lab to act as an intermediary between SENAIN and Hacking Team.⁹⁷ Secondly, Robotec (Colombia) and Theola (Belize) were identified as intermediaries between SENAIN and the Italian Company.⁹⁸ Thirdly, several researchers, helped by the victims exposed in the Hacking Team database, were able to confirm the veracity of the documents.⁹⁹ Finally, the governments of Chile¹⁰⁰ and Cyprus¹⁰¹ recognized the authenticity of the leaks the first week after they came out.

According to a technical analysis by “ilv”, a Tor Project developer, the government targeted judges, members of the national electoral council, political parties and political movements.¹⁰² On August 4, 2015, Ecuador Transparente made public 31 secret documents from SENAIN corresponding to intelligence gathered between 2012 and 2014. Among the targets were Mauricio Rodas, mayor of Quito; politicians Alvaro Noboa, Gilmar Gutiérrez, Dalo Bucarám, Mery Zamora and Andrés Páez; environmentalists Matt Finer, Joke Baert, Sigmund Thies and Kevin Koenig; cartoonist Xavier Bonilla; and journalists María Josefa Coronel and Carlos Vera. Grassroots environmentalist organizations, like Pachamama and Yasunidos, were also targeted. Both groups, apparently, had their telephone calls and emails intercepted.¹⁰³

As shown in the documents leaked by Ecuador Transparente, SENAIN also made use of information gathered by public agencies and stored in the government platform www.datoseguro.gob.ec. This website, administered by the National Directorate of Public Data Registry, claims that their data is encrypted in transit and on its servers.¹⁰⁴ Public entities, however, are legally obliged to provide any information required by SENAIN as long as this request has been communicated to the president.¹⁰⁵ While President Rafael Correa has stated that everything done by the Intelligence Agency is within the rule of law,¹⁰⁶ it is unclear whether interception was authorized by a judge, since the president later declared that “any use of SENAIN equipment for national security purposes” is authorized by the district attorney.¹⁰⁷

The National Secretariat of Intelligence is accountable to the executive power and to a specialized

97 Andreína Laines, “Lourdes Tibán asegura que sí existió relación entre la Senain y Hacking Team,” [Lourdes Tibán assures that there is a relation between Senain and Hacking Team], Ecuavisa, July 30, 2015, <http://bit.ly/1UIK2y8>.

98 Rebeca Morla, “Ecuadorian Websites Report on Hacking Team, Get Taken Down,” *PanamPost*, July 13, 2015, <http://bit.ly/1oebLCI>.

99 Associated Press, “APNewsBreak: Leaked Hacking Team emails suggest Ecuador illegally spied on opposition,” *Fox Business*, August 6, 2015, <http://fxn.ws/1Rmaa9M>.

100 Carlos Gutiérrez, “Chile confirma la compra de software a Hacking Team,” [Chile confirms software acquisition from Hacking Team], FayerWayer, July 7, 2015, <http://bit.ly/22Qp7EZ>.

101 Cale Guthrie Weissman, “The Hacking Team fallout continues, as the head of intelligence for Cyprus steps down,” *Business Insider*, July 13, 2015, <http://read.bi/1MsWwS3>.

102 Ilv, “Hacking Team, Chile & Ecuador,” July 11, 2015, <http://bit.ly/1PxVA9x>.

103 Associated Whistleblowing Press, “Ecuadorian intelligence agency spied systematically on politicians and activists,” August 4, 2015, <http://bit.ly/1MsYGRI>.

104 Dirección Nacional de Registro de Datos Públicos, “Preguntas Frecuentes,” [FAQ], March 26, 2016, <http://bit.ly/1pDBXrr>.

105 Law of Public and State Security, Article 17.

106 Article 22 of Law of Public and State Security states that it is prohibited to gather information, produce intelligence or store data on individuals because of “ethnicity, sexual orientation, religion, private actions, political preference or adhesion or membership to partisan organizations.”

107 The Criminal Code provides in Article 5.10 that “everyone is entitled to their personal and family privacy and records and searches cannot be done (...) except by order of the competent judge.” The Telecommunications Act provides in Article 77 that interception of data and messages can only be done “when there is an express order of a competent judge, as part of an investigation of a crime or for reasons of public security and the state, according to those established by law and following due process.” On the other hand, Article 470 of the Criminal Code states that personal communications to third parties cannot be recorded without their knowledge and authorization, except as expressly stated in the law and previous court order. As for the interception of computer data, Article 476 of the Criminal Code allows it, as part of a judicial process only. See: ANDES, “President Rafael Correa denies that Secretary of Intelligence hired Italian Company Hacking Team,” July 17, 2015, <http://bit.ly/1PxXRS6>.

committee of the National Assembly, where they present a report every three months in reserved sessions. Nevertheless, the legal representative of SENAIN is not required to answer every question asked.¹⁰⁸ The Comptroller General may also investigate SENAIN in the area of competence. Besides the abovementioned mechanisms, there is no oversight body in place to guard against abusive use of surveillance technology. Content intercepted during internet surveillance is admissible in court and can be used to convict criminals under Articles 476 and 528 of the Criminal Code.

There have been several indications of government monitoring of blogs, social media and websites. The contract between Emerging MC and SENAIN, made public by *Buzzfeed*, requires the company to “predict, anticipate and eliminate” material on social media.¹⁰⁹ In previous reports from 2013, “marketing company” Illuminati Lab displayed monitoring of Ecuadorian social media as a success story of their company.¹¹⁰ In April 2016, SENAIN published a press release threatening legal action in light of “unfounded publications made by (...) some Twitter users” related to the Panama Papers leak.¹¹¹

In 2011, SENAIN signed a nondisclosure agreement with the Chinese firm Huawei.¹¹² The company is a partner of state-owned CNT and their technology is widely available in the country. Additionally, under the rules of the telecommunications law, ISPs are obliged by ARCOTEL to “provide technical, economic, financial, legal documents, and in general, any form or request for information” and to “allow inspections to facilities and systems.”¹¹³ Finally, the Subsystem for Interception of Communications or Computer Data (SICOM) of the General Attorney requested Hacking Team’s assistance to build a country-wide monitoring center to access PCs, laptops, cellphones and tablets.¹¹⁴ The system currently allows interception of voice calls and text messages (SMS) of criminal suspects.¹¹⁵

Neither anonymous nor encrypted communications are prohibited in Ecuador. Registration of cell phones and SIM cards, however, is mandatory for every citizen.¹¹⁶ News sites are also required to prove the identity of commentators, or are otherwise liable for the latter’s wrongdoing. ISPs are required to submit the IP addresses of their clients without a judicial order on request by Arcotel.¹¹⁷ Finally, mobile operators were required to implement technology that would automatically provide the physical location of cellphone users for emergency purposes, within an accuracy range of 50 meters.¹¹⁸

108 “Rommy Vallejo acudió a la Asamblea Nacional para presentar su declaración trimestral de cuentas,” [Rommy Vallejo attended the National Assembly to present its quarterly statement], *El Comercio*, August 5, 2015, <http://bit.ly/1SQSeq3>.

109 James Ball & Paul Hamilos, “Ecuador’s President Used Millions Of Dollars Of Public Funds To Censor Critical Online Videos,” *BuzzFeed*, September 24, 2015, <http://bzfd.it/1Lu6kee>.

110 Mónica Almeida, “Illuminati destaca como su ‘caso de éxito’ a campaña de Rafael Correa en redes,” [Illuminati highlights as “success case” their Rafael Correa campaign in networks], Dec. 10, 2013, <http://bit.ly/1iu99pX>.

111 Secretaría Nacional de Inteligencia, “Comunicado de Prensa,” [Press Release], April 4, 2016, <http://bit.ly/1TP9NYp>.

112 Secretaría Nacional de Inteligencia, “Convenio de Confidencialidad,” [Nondisclosure agreement], June 30, 2011, <http://bit.ly/1VPadNd>.

113 Presidencia de la República del Ecuador, Executive Decree 864, January 25, 2016, <http://bit.ly/25rkkvZ>.

114 Plan V, “Los secretos del nuevo Proyecto Galileo,” [The secrets of the new Galileo Project], July 8, 2015, <http://bit.ly/22FDFKW>.

115 Fiscalía General del Estado, “La interceptación de llamadas se hace solo bajo la autorización de un juez,” [Call interception is done only under the authorization of a judge], July 21, 2015, <http://bit.ly/1Mu8c70>.

116 Derechos Digitales, “Freedom of Expression, Encryption and Anonymity, Civil Society and Private Sector Perceptions,” May 21, 2015, <http://bit.ly/1UvKTn4>.

117 See Article 29.9, ARCOTEL, “Reglamento para abonados de los servicios de telecomunicaciones y valor agregado,” [Telecommunication Service Subscribers and Added Value Regulation], July 20, 2012, <http://bit.ly/25r1W4>.

118 Servicio Integrado de Seguridad ECU 911, “Informe de Gestión Anual 2015,” [Annual Report 2015], February 19, 2016, <http://bit.ly/1MuS6Kp>, and Ecu 911, “Geolocalización,” [Geolocation], <http://bit.ly/2e3vfsH>.

Intimidation and Violence

Social media influencers in Ecuador often face harassment, both online and offline. On July 29, 2015, a bouquet of flowers was thrown at activist Paulina Muñoz by an unknown man on the street. She also disclosed that her Facebook page and email had been compromised and used to threaten her.¹¹⁹ Similarly, a Twitter user critical of the government received what was labeled as a “Christmas gift” from two unidentified senders. When he opened it, he found a box representing a coffin, a disemboweled cat, pictures of his wife and children, and a message that “granted” him 24 hours to close his Facebook and Twitter accounts.¹²⁰ Previous victims of harassment have also received offline threats because of their online activities, such as Gabriel Gonzalez, creator of the satire page *Crudo Ecuador*,¹²¹ and journalists Betty Escobar¹²² and Andrés Mendoza.¹²³

Online threats are also a common occurrence, especially fueled by the heated atmosphere amplified by the president’s weekly speeches calling on supporters to dox and prosecute dissidents.¹²⁴ In January 2016, President Correa called for the public to “use the law” against his critics on social media.¹²⁵ Days later, several Twitter accounts critical of the government were suspended. Most of them were reactivated without any explanation as to why they were sanctioned.¹²⁶ Correa also has encouraged his followers to find and release personal information about users who insult him¹²⁷ as well as investigative journalists, like those reporting on the Panama Papers.¹²⁸

Privacy activists Rafael Bonifaz and Alfredo Velasco denounced threats to their families as an aftermath of their follow-up on the Hacking Team scandal.¹²⁹ Andrés Delgado, who broke the story on the online magazine *Gkillcity.com*, lost internet access and received threats via WhatsApp.¹³⁰ Other victims include lawyer Silvia Buendía, who was threatened with having her limbs amputated; news outlet *La República Digital*, which received a message stating “I hope someone burns your facilities with all of you inside”; and Pamela Aguirre, a member of the ruling party who also received death threats for her activity promoting President Correa’s reelection.¹³¹

119 Fundamedios, “Activist gets bouquet as threat and reports she is the victim of harassment,” July 29, 2015, <http://bit.ly/1RBDbx5>.

120 “Tuitero denuncia amenazas de muerte,” [Twitter user denounces death threats], *La República*, December 25, 2015, <http://bit.ly/1NSyqv0>.

121 Silvia Viñas, “What Happened When I Joked About the President of Ecuador,” *The New York Times*, May 1, 2015, <http://nyti.ms/1E2DoiV>.

122 Marcela Estrada, “Ecuador: Censorship Beyond Borders Draws Human-Rights Condemnation,” *PanamPost*, May 16, 2014, <http://bit.ly/21PxsGH>.

123 Fundamedios, “Journalist receives several messages threatening him to death,” May 17, 2015, <http://bit.ly/1ZGSyYe>.

124 Fundamedios, “President calls for revealing Twitter user’s identity and prosecute those who respond to his challenge in social networks,” January 11, 2016, <http://bit.ly/1VBGsiW>.

125 Fundamedios, “President calls for revealing Twitter user’s identity and prosecute those who respond to his challenge in social networks,” January 11, 2016, <http://bit.ly/1VBGsiW>.

126 Fundamedios, “Twitter keeps suspending accounts from users that are critical with the government,” January 19, 2016, <http://bit.ly/1o53eC7>.

127 Usuarios Digitales, “Presidente pide identificar tuiteros que ‘insulten’ en internet,” [President asks to identify twitter users who insult on the internet], June 7, 2016 <http://bit.ly/1QdQJ4y>.

128 Paola Navarrete, “Latin American journalists investigating the Panama Papers suffer criticism and retaliation,” *Journalism in the Americas*, April 27, 2016, <http://bit.ly/21hq2Nr>.

129 Fundamedios, “Digital rights activists threatened through Twitter,” July 14, 2015, <http://bit.ly/1qbZqAE>.

130 Andrés Delgado, “El miedo de vigilar a los vigilantes,” [The fear of watching the watchers], Blog Post, January 15, 2016, <https://eff.org/r.xdr2>.

131 Fundamedios, “The activist Silvia Buendía was threatened on Twitter,” February 8, 2016, <http://bit.ly/1RC1Wcx>, “News portal receives threats of arson through social networks,” November 18, 2015, <http://bit.ly/1UqYdCf>, Redacción elcomercio.com, “José Serrano anuncia que investigará las amenazas a Pamela Aguirre,” [José Serrano says he will investigate threats to Pamela Aguirre], March 13, 2016, <http://bit.ly/1URK6pf>.

Technical Attacks

The year 2015 saw an extensive campaign of phishing and malware attacks targeting civil society and public figures in the country. Ecuador is the fourth country with the highest number phishing attacks in the world.¹³²

In December 2015, Citizen Lab revealed an analysis of a series of malware attacks in Ecuador and other countries. High-profile journalists working on domestic and regional politics, like Janeth Hinostroza; civil society organizations, activists and politicians working on environmental issues and freedom of expression, like César Ricaurte; and members of the parliament were known targets of the so-called Packrat malware.¹³³

Journalist José María León reported that one day after the publication of the Hacking Team leaks, Gkillcity.com had its Twitter account hacked and deleted and their office internet access was interrupted. "One month before, we immediately remembered, someone hacked our Facebook account." Gkillcity, along with Milhojas.is and Planv.com; all received distributed-denial of service (DDoS) attacks after publishing articles detailing the links between SENAIN and Hacking Team.¹³⁴

Four different media sites reported attacks while providing live coverage of antigovernment protests.¹³⁵ The website censuracom.ec was inaccessible for several days due to DDoS attacks, as reported by Fundamedios, a freedom of expression watchdog, which had its website attacked at the same time.¹³⁶ Several social media accounts criticizing the government had also been suspended.¹³⁷

In August 2015, Mil Hojas Foundation published a document linking previous attacks against Bananaleaks.com (a website that published information against the government) and its associated Twitter account to "Eye Watch," a registered trademark of Emerging MC, the company allegedly hired by SENAIN for US\$ 4.69 million.¹³⁸

Ecuador has the fourth-highest number of phishing attacks in the world.¹³⁹ Between January 2015 and October 2015, there were 1,254 allegations of cybercrimes in Ecuador, according to the Attorney General, of which 800 (63 percent) were for misappropriation of money or information through electronic means. The most common type of financial malware were SMS trojans (67 percent), followed

132 María Vergelis, Tatyana Shcherbakova, Nadezhda Demidova, Darya Gudkova, "Kaspersky Security Bulletin, El spam en 2015," [Kaspersky Security Bulletin, spam in 2015], February 5, 2016, <http://bit.ly/1MuS6Kp>.

133 John Scott-Railton, Morgan Marquis-Boire, Claudio Guarnieri, and Marion Marschalek, "Packrat: Seven Years of a South American Threat Actor," Munk School of Global Affairs, University of Toronto, December 8, 2015, <http://bit.ly/1U3dFkI>.

134 José María León, "El día que tuvimos miedo," [The day we were afraid], Gkillcity.com, July 13, 2015, <http://bit.ly/25t7ygw>.

135 Teresa Mioli, "Cyberattacks push Ecuadoran [SIC] news sites offline during protest coverage," Journalism in the Americas, June 12, 2015, <http://bit.ly/1SfU8KT>.

136 "El reporte sobre la censura que fue censurado a las 48 horas," [The censorship report that was censored after 48 hours], Plan V, January 25, 2016, <http://bit.ly/1JBmxgK>.

137 Fundamedios, "Social networks continue suspending accounts and critical content against the Ecuadorian government," January 28, 2016, <http://bit.ly/1REFFaP>.

138 Fundación 1000 hojas, "Operación Walkiria: Así censuraron a Bananaleaks," [Walkiria Operation: This is how they censored bananaleaks], August 28, 2015, <http://bit.ly/1URRe52>; See also: James Ball & Paul Hamilos, "Ecuador's President Used Millions Of Dollars Of Public Funds To Censor Critical Online Videos," *BuzzFeed*, September 24, 2015, <http://bzfd.it/1Lu6kee>. The trademark was registered by I3 Ventures in 2015, however it remains under the same registrant of Illuminati Lab company <http://bit.ly/1ZHkawo>.

139 María Vergelis, Tatyana Shcherbakova, Nadezhda Demidova, Darya Gudkova, "Kaspersky Security Bulletin, El spam en 2015," [Kaspersky Security Bulletin, spam in 2015], February 5, 2016, <http://bit.ly/1MuS6Kp>.

by spyware (23 percent). The province of Guayas registered 49 percent of all malware attacks in the country, followed by Pichincha with 43 percent.¹⁴⁰

The Counter-Intelligence and Strategic Technological Operations Center of SENAIN handles the technical aspects of the country's cybersecurity, and EcuCERT, has been in operation since 2014.¹⁴¹ In early 2016, Ecuadorian police created a special unit to deal with cybercrime with a team of 200 agents working in research and intelligence.¹⁴²

140 Dmitry Bestuzhev (@dimitribest), Twitter posts on October 30 2015, <http://bit.ly/1VPBXRO>.

141 Inter-American Development Bank (IDB); Organization of American States, "Cybersecurity: Are We Ready in Latin America and the Caribbean?" March 2016, <http://bit.ly/1qatSLC>.

142 ANDES, "Ecuador crea unidad especial para enfrentar cibercriminos," [Ecuador creates special unity against cybercrime], February 3, 2016, <http://bit.ly/1MM284J>.