

Peyton Chance

Dr. Lars Schoultz

POLI 450-001

26 April 2016

Restricted: U.S. Foreign Policy and the Ecuadorian Press

In August 2015, Cotopaxi Volcano erupted and rained ash down on the area south of Quito, Ecuador. The resulting action by Rafael Correa, President of the Republic of Ecuador, says less about volcanoes and more about his severe mistrust of a free press. According to the United States Department of State's Country Report on Human Rights Practices for 2015 in Ecuador, Correa declared a state of emergency and named a government official as the only legitimate source of information regarding the eruption (16). He also banned the private media from speculating about volcanic activity. Correa claimed that this was to prevent rumors that cause public unrest (16). Even social media users in Ecuador faced the threat of legal action in response to posting rumors surrounding the volcano's activity (16).

As a promoter of liberal democracy around the globe, the United States has a vested interest in supporting the international free press both in times of eruption and times of peace. The U.S. Department of State and President Barack Obama have been vocal about violations of human rights in Ecuador, and specifically restrictions on the press. In April 2015, President Obama said that the U.S. is not "interested in meddling" but that he would continue to speak out about the ongoing violation of human rights in Ecuador (Obama 1). There exists, however, a discrepancy between the United States' public policy of condemnation of Ecuador's restrictions

on free expression and the political and monetary actions that United States actors take to counteract them.

This discrepancy is due, in part, to the current political situation in Ecuador, which has made it increasingly difficult for American money to reach Ecuadorian organizations that are fighting against corruption. Additionally, the United States Congress made it clear in 2011 that it was not in favor of funding foreign aid to Ecuador's government under Correa (H.R. 2583, 26). These limitations, among others to be discussed, will shape the ways in which U.S. policy toward Ecuador's press may be evaluated and, with hope, improved.

In order to improve Ecuador's press problem, it is important to first understand the history of its charismatic leftist leader. Correa's background in economics and his recent history as president provides context for the current clash between Ecuadorian press policy and U.S. foreign policy. He is an Ecuadorian national, but holds a Ph.D. in economics from the University of Illinois at Urbana-Champaign (Tikkanen and Wallenfeldt 1). The self-proclaimed socialist is a well-known opponent of Washington's economic foreign policy. This policy, termed the "Washington Consensus" was the law of the land in Latin America in the 1990s because it was tied to international development loans. His doctoral dissertation, defended in 2001, attacked the Washington Consensus. Correa used empirical methods to argue that structural reforms "are neither necessary nor sufficient for high growth" ("Three Essays" 52). With this background, Correa became the Ecuadorian minister of finance in 2005. He then ran for the presidency in 2006 (Tikkanen and Wallenfeldt 1).

Early in his presidency, Correa displayed hostility toward the Ecuadorian press. In March 2007, the newspaper *La Hora* published an opinion piece titled "Vandalismo oficial". The brief

article condemned President Correa and his administration for attempting to “gobernar con tumultos”, or “govern with turmoil” (1). In response to the critique, Correa famously launched a defamation suit against the president of the newspaper, Francisco Vivanco Riofrío (La Hora 1). According to a press release from Article XIX, an international non-profit for the promotion of free expression, Correa’s legal counsel announced that the government “would take legal action against anyone publishing ‘unsubstantiated and libellous’ reports” (“Ecuador: President Launches” 1).

Unfortunately, attacks on the Ecuadorian press did not cease in 2007. A landmark event in Correa’s presidency came in 2008 with the adoption of a new constitution. The constitution, a key component of Correa’s 2006 campaign, brought many positive changes. The document technically guarantees freedom of expression for private media (EC Const. title VII, ch. 1, sec. 7). Despite this promise, the constitution was followed by enforcements and legislative changes that institutionalized Correa’s restrictive press policy.

Punishable restrictions on statements made about public figures place pressure on the media in Ecuador. Article 230 of the Ecuadorian Penal Code states, “El que con amenazas, amagos o injurias, ofendiere al Presidente de la República o al que ejerza la Función Ejecutiva, será reprimido con seis meses a dos años de prisión y multa de ciento a quinientos sucres,” (EC Código Penal, title III, ch. 1, art. 230). Essentially, the article states that those who offend the President or another government executive may face between six months and two years in prison or a maximum fine of 500 sucres, roughly \$77 (EC Código Penal, title III, ch. 1, art. 230). Laws like Article 230 have come to be known as “desacato” or “contempt” laws, and are generally regarded by the international community as a violation of the the right to freedom of expression.

Article 230 has caused international concern during Correa's presidency. In 2011, the Human Rights Watch delivered an amicus curiae to the Constitutional Tribunal of Ecuador that argued that Article 230 is unconstitutional ("Amicus Presentado" 1). The document argued that at least eight Latin American nations, including Ecuador's southern neighbor Peru, have removed laws that protect public officials from criticism ("Amicus Presentado" 1).

In 2013, the Ecuadorian government passed a new communications law that went beyond Article 230 to place further restrictions on the media. Article 26 of the law made it illegal to publish material "con el propósito de desprestigiar a una persona natural o jurídica o reducir su credibilidad pública," (cited in "Primera Sanción"). The U.S. Department of State was immediately concerned by the new *desacato* law, which shields public figures from critical speech, much like Article 230 of the Penal Code. On June 18, 2013, the U.S. State Department released a statement condemning the law for violating the Universal Declaration of Human Rights and the Inter-American Democratic Charter ("Passage of Restrictive" 1). The statement clarified that it is the policy of the United States to support the freedoms of an independent media as part of the democratic process ("Passage of Restrictive" 1).

Attacks on the free press in the early stages of Correa's presidency led to the formation of the media watchdog Fundamedios. At the time of this paper's publishing, the group had reported 1,535 attacks on freedom of expression since its founding in 2008 (*Inicio* 1). In September 2015, Fundamedios received a letter from the Ecuadorian Secretary of Communications that condemned the organization for posting "unfounded alerts with the sole purpose of harming Ecuador's prestige and institutions," (cited in "Ecuador Won't Dissolve" 1). The Ecuadorian government threatened to begin the dissolution process for Fundamedios.

According to the Center for International Media Assistance, a program sponsored by the National Endowment for Democracy, a forum of free press organizations met in Quito in September and drafted a declaration for action in defense of Fundamedios (Podesta 1). The declaration included plans for an international delegation to meet with the World Bank, the Inter-American Development Bank, and the Development Bank of Latin America (CAF), to inform them of the human rights situation in Ecuador (“Action Plan” 1). The declaration said the purpose of the delegation was to have the organizations “take this information into account at the time of providing assistance to the country” (“Action Plan” 1). The international pressure was, evidently, strong enough to block the dissolution, as the government of Ecuador announced on September 25 that it would drop the case.

The United States government played a somewhat minor role in blocking the closure of Fundamedios. On September 10, 2015, the House Foreign Affairs Committee released a statement chastising the attack against the media watchdog. The statement reads:

The decision to close Fundamedios is yet another example of the Correa Administration’s continued attack on a free and independent press. Time and time again, President Correa has chosen to crack down on press freedom by forcing media outlets to issue corrections, pay fines, and retract stories. (“Statement on Closure” 1)

The statement called Correa’s actions “politically motivated” and made it clear that the freedom of Ecuador’s press was on Washington’s radar in 2015 (“Statement on Closure” 1).

The House Foreign Affairs Committee statement is just one example of explicit condemnation of Ecuador’s attacks on the free press by American actors. Five months before the

Fundamedios issue took the spotlight, President Obama spoke on press freedom at the Summit of the Americas in Panama City, Panama. He said:

Perhaps President Correa has more confidence than I do in distinguishing between bad press and good press. There are a whole bunch of press that I think is bad, mainly because it criticizes me, but they continue to speak out in the United States because I don't have confidence in a system in which one person is making that determination.

(Obama 1)

President Obama condemned Correa for playing God with the Ecuadorian press. Obama also emphasized the importance of “not jailing people if they disagree with you,” (1).

At the same event, President Correa gave a speech in which he accused the United States of “illegal interventionism” under the guise of human rights protection (“Speech by President” 2). The intervention he speaks of may be seen as a violation of Article 19 of the Charter of the Organization of American States, which says that no state may intervene in the internal or external affairs of any other state (Charter 7).

This is where the central issue of American intervention is introduced. In addition to guaranteeing state sovereignty, the Organization of American States has agreed that the freedoms of thought and expression are basic human rights (“American Convention” 6). The American Convention on Human Rights, a document signed by both the United States and Ecuador, guarantees the “freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice” (“American Convention” 6). While Correa may be correct in saying

that American intervention violates the Charter of the OAS, Ecuador's government has violated this provision of the American Convention on Human Rights many times since his inauguration.

Correa went so far as to directly address concerns over the press situation under his administration in his speech. He challenged claims of a restricted press by saying that Latin American governments "dare to answer them, to challenge their hegemony, to unmask their lies" ("Speech by President" 4). He finished the section by saying, "We must also agree that a bad press sector is lethal to democracy...and the Latin American press is bad, very bad!" ("Speech by President" 4) Obama's speech made it clear that the United States does not support the idea that an executive may decide to punish the press simply because it is bad.

The OAS itself, which holds the Summit of the Americas, has also published criticism of Correa's press policies. In a 2013 publication, the Office of the Special Rapporteur for Freedom of Expression, a division of the Inter-American Commission on Human Rights (IACHR), expressed concern for Ecuador's press situation. The report said that Correa had used inappropriate words to refer to journalists including "scoundrels," "shameless," and "worst press in the world," ("Violence against Journalists" 27). The Office of the Special Rapporteur scolded Correa for creating a hostile environment for journalists. Additionally, the report reiterated "the importance of 'creating a climate of respect and tolerance for all ideas and opinions,'" ("Violence against Journalists" 27).

In order to evaluate the climate for which the IACHR advocates, The U.S. Department of State releases an annual human rights report. The 2014 report for Ecuador showed serious concern for restrictions on the press by the Correa administration. It showed that challenges to

the constitutionality of Ecuador's 2013 communications law were denied by the Constitutional Court as recently as September 2014 ("Ecuador 2014 Human Rights" 14).

This prolongation of injustice is paired with several anecdotes of journalists who have been reprimanded for the content they publish under the law. In February, political cartoonist Xavier Bonilla was forced to correct a caricature of Correa that the government deemed inaccurate and in promotion of "social unrest" ("Ecuador 2014 Human Rights" 14). According to the report, *El Universo*, the newspaper that published the cartoon, was forced to pay a fine and issue a public apology to the Afro-Ecuadorian community ("Ecuador 2014 Human Rights" 14).

As violations of freedom in Ecuador grow, monetary contributions by United States actors in recent years indicate that the nation is interested in intervening with more than just words. Much of the money directed to fostering freedom of the press in Ecuador is channeled through the National Endowment for Democracy (NED), a private organization financed by the U.S. Department of State. NED provides money to domestic and international organizations to strengthen democracy around the world ("About the National" 1).

NED data show that a discrepancy exists between the United States' published policy and dollars on the ground in Ecuador. In 2014, NED allocated \$89,232 for "Monitoring Freedom of Expression and the Press in Ecuador," ("Ecuador 2014" 1). While the information available does not name a specific implementing organization, it indicates that the funds would be used to protect journalists, monitor violations of freedom of expression, and increase the scope of violation alerts ("Ecuador 2014" 1). The specifics of how the money is spent are not available through the NED's resources, but less than \$90,000 is likely to have a limited practical impact.

NED also allocated \$36,000 to establishing a network of journalists to publish news and investigative reports in 2014 (“Ecuador 2014” 1). This is where President Correa’s claims against “illegal interventionism” find their basis. Through NED, the United States has a direct financial hand in investigative journalism in Ecuador, which the Correa administration has labored to censor.

The financial hand of the U.S. government is also extended through the Agency for International Development (USAID). USAID has a complicated recent history in Ecuador, which mirrors Correa’s hostility toward U.S. intervention. In 2011, the Department of State and USAID planned \$30,528,000 in assistance to Ecuadorian agencies (“Ecuador” 1). According to an article in GlobalPost, about \$280,000 of USAID money went to the media watchdog Fundamedios in 2011 (Otis 1). Again, United States funds were directly supporting organizations working to expose human rights violations in Ecuador.

In the same year, the Foreign Relations Authorization Act explicitly stated that foreign affairs money could not be used to assist the government of Ecuador in the 2012 fiscal year (H.R. 2583, subtitle C, part II, sec. 931). As such, the money being sent to Ecuador was used by private organizations, like Fundamedios, and not the Ecuadorian government. Providing funds to private organizations opposed to current government policies placed the U.S. government in direct and obvious opposition with the Correa administration.

On the Ecuadorian side, President Correa published Executive Decree 16, which placed heavy restrictions on NGOs and foreign aid agencies operating in Ecuador (Otis 1). The environment for USAID work in Ecuador became hostile, as Correa’s 2013 decree allowed the government to revoke agreements with organizations that were found to “undermine security and

public peace” (“Ecuador: Clampdown” 1). In 2014, USAID left Ecuador because Correa’s government “refused to allow Washington’s aid agency to renew its programs or start any new activity in the country” (Otis 1). USAID support to civil society organizations like Fundamedios became, at least temporarily, a thing of the past.

Although NED never left Ecuador, USAID has pledged to return to the country to focus on the promotion of civil society. According to the U.S. government’s foreign assistance website, \$2 million have been pledged between the Department of State and USAID to “provide mediums (media, civil society organizations, advocacy groups/associations) through which citizens can freely organize, advocate, and communicate with their government and with each other,” (“Ecuador” 1). The specific allocation of the planned monies is unclear, which makes assessing the efficacy of U.S. dollars in Ecuador a nearly impossible task. Additionally, USAID has pledged to send humanitarian aid in response to the April 16 earthquake that devastated areas of Ecuador’s coastal region, including the economic capital Guayaquil (Alanoca 1).

Future solutions to the press problem in Ecuador will either require increased cooperation between the Ecuadorian government and INGOs or more creative strategies by the United States to circumvent resistance by the Correa administration. Additionally, clarifications of the relationship between rights guaranteed in the OAS Charter and the American Convention in the context of press freedom are sorely needed. The OAS must determine if U.S. attempts to foster free press under the restrictive Correa administration are in violation of its charter and, if so, what can be done to protect democracy without violating Ecuador’s sovereignty.

If the downward spiral of Ecuadorian press freedom is to be reversed, then the United States government and NED must be prepared to dedicate more funds to intervention programs.

The return of USAID in fiscal year 2016 provides some hope for improvement in the United States' ability to intervene. Furthermore, the successful barring of Fundamedios' closure indicates the efficacy of international political pressure on the Ecuadorian government.

Ultimately, the goal of U.S. foreign policy is to encourage a free press in Ecuador as an integral component of an effective democracy. If the United States, and other nations willing to intervene in the name of liberal democracy, are prepared to put real money behind their press releases, this goal will inch closer toward becoming reality.

Works Cited

"About the National Endowment for Democracy." *National Endowment for Democracy*.

National Endowment for Democracy, n.d. Web. 25 Apr. 2016.

"Action Plan - Quito Forum on Freedom of Expression." *Sipconnect*. Inter American Press Association, 15 Sept. 2015. Web. 25 Apr. 2016.

Alanoca, Jesús. "USAID Retornó a Ecuador Para Ayudar a Las Víctimas." *Noticias De Bolivia Y El Mundo*. El Deber, 21 Apr. 2016. Web. 25 Apr. 2016.

"American Convention on Human Rights." *Organization of American States*. Organization of American States, n.d. Web. 23 Apr. 2016.

"Amicus Presentado Ante La Corte Constitucional Del Ecuador." *Human Rights Watch*. Human Rights Watch, 14 Nov. 2011. Web. 20 Apr. 2016.

Charter. Organization of American States. Feb. 27, 1967. Web. 22 Apr. 2016.

http://www.oas.org/dil/treaties_A-41_Charter_of_the_Organization_of_American_States.pdf

Correa, Rafael Vicente. "Speech by President Rafael Correa of Ecuador during the Plenary of the Seventh Summit of the Americas." *Organization of American States*. 11 Apr. 2015. Web. 22 Apr. 2016.

Correa, Rafael Vicente. "Three Essays on Contemporaneous Latin American Development." Diss. U of Illinois at Urbana-Champaign, 2001. Ann Arbor: ProQuest Dissertations, 2001. Print.

"Country Reports on Human Rights Practices for 2015." *U.S. Department of State*. U.S. Department of State, 2015. Web. 20 Apr. 2016.

"Ecuador." *ForeignAssistance.gov*. ForeignAssistance.gov, n.d. Web. 25 Apr. 2016.

<<http://beta.foreignassistance.gov/explore/country/Ecuador>>.

"Ecuador: Clampdown on Civil Society." *Human Rights Watch*. Human Rights Watch, 12 Aug.

2013. Web. 25 Apr. 2016.

Ecuador. *Constitución*. Title 7, Ch. 1, Sec. 7.

Ecuador. *Código Penal*. Title III, Ch. 1, Art. 230.

"Ecuador: President Launches Defamation Suit against Journalist in Retaliation for March

Referendum Article." *Article XIX* (2007): n. pag. *Article XIX*. Web. 20 Apr. 2016.

"Ecuador Won't Dissolve Free-Speech NGO Fundamedios, for Now." *PanAm Post*. PanAm Post,

28 Sept. 2015. Web. 18 Apr. 2016.

"Ecuador 2014." *National Endowment for Democracy*. National Endowment for Democracy, n.d.

Web. 25 Apr. 2016.

"Ecuador 2014 Human Rights Report." United States Department of State. 2014. Washington,

DC: U.S. Government Printing Office. Retrieved from:

<http://www.state.gov/documents/organization/236898.pdf>

H.R. 2583, 112 Cong., U.S. G.P.O. 26 (2011) (enacted). Print.

Inicio. Fundamedios, 2015. Web. 25 Apr. 2016.

Obama, Barack. "Remarks by President Obama at the First Plenary Session of the Summit of the

Americas." *The White House*. The White House, 11 Apr. 2015. Web. 22 Apr. 2016.

Otis, John. "USAID Is Leaving Ecuador." *GlobalPost*. GlobalPost, 30 Sept. 2014. Web. 25 Apr.

2016.

"Passage of Restrictive Communications Law in Ecuador." *U.S. Department of State*. U.S.

Department of State, 18 June 2013. Web. 23 Apr. 2016.

Podesta, Don. "Ecuador's Media Watchdog Bites Back." *Center for International Media*

Assistance. National Endowment for Democracy, 18 Sept. 2015. Web. 23 Apr. 2016.

"Primera Sanción Por Linchamiento Mediático a Un Medio De Comunicación." *El Universo*. El

Universo, 13 Feb. 2015. Web. 26 Apr. 2016.

"Statement on Closure of Fundamedios." *House Committee on Foreign Affairs*. House

Committee on Foreign Affairs, 10 Sept. 2015. Web. 25 Apr. 2016.

Tikkanen, Amy, and Wallenfeldt, Jeff. "Rafael Correa." *Encyclopedia Britannica Online*.

Encyclopedia Britannica, 29 Apr. 2009. Web. 15 Apr. 2016.

"Vandalismo Oficial." *La Hora*. La Hora, 9 Mar. 2007. Web. 21 Apr. 2016

"Violence against Journalists and Media Workers: Inter-American Standards and National

Practices on Prevention, Protection and Prosecution of Perpetrators." Inter-American

Commission on Human Rights. 31 Dec. 2013.