

Örebro University
School of Humanities,
Education and Social Sciences
2015-06-15

‘FREEDOM OF PRESS IN ECUADOR:
CONDITIONS AND CONSEQUENCES OF THE
2013 ORGANIC COMMUNICATIONS LAW’

“For my friends everything, for my enemies the law”

(Getulio Vargas)

MA Thesis
Journalism Connected
Supervisor: Stig-Arne Nohrstedt
Author: Kristin Eriksson Valentim

“Journalism is reduced to a decorative role. It engages with politics, but only by means of scandals. Over politics it prioritizes fashion, sports and gossip, rarely adopt controversial political agenda unless it entails dissidence among the ruling elite. Superficiality is a journalistic strategy for survival and modus vivendi for media owners”.

(Ocando 2008 p.2)

ABSTRACT

The present thesis seeks to shed light upon press freedom and government control over media outlets in Ecuador, by examining the 2013 Organic Communications Law. In main, the study investigates the significance of the law and the consequences of it to the media landscape. More specifically it aims to discover how representatives of media interpret the law and its purposes, as well as to create an understanding for press freedom in Ecuador. The thesis hypothesis is that the Organic Communications Law, according to experts, threatens freedom of expression and increases state dominion over media outlets. The methodology used for the empirical study is interviews with professionals in the journalistic field in Ecuador. The results indicate that the Communications Law reduces media organizations' independence and power over what information they convey and increases government control over the same. Further it allows the government to criminalize journalists, newspapers and radio stations that are not state-owned. In other words, the Communications Law poses a serious threat to freedom of press in Ecuador.

Keywords: Freedom of Expression; Press Freedom; Ecuador; Organic Communications Law; Censorship, Government Control

Abbreviations:

UDH	Universal Declaration of Human Rights
ICCPR	International Covenant on Civil and Political Rights
OCL	Organic Communications Law
SeCom	Secretariat of Communication
SeCap	Vocational Training Service
SuperCom	Superintendence of Information and Communication
SenesCyt	Ministry of Higher Education, Science, Technology and Innovation
CA	Content Analysis
CDA	Critical Discourse Analysis
AEDEP	Ecuadorean Association of Editors of Newspapers
UN	United Nations

TABLE OF CONTENT

1. Introduction	1
1.1 Background.....	1
1.2 Ecuador.....	2
1.3 Aim, Hypothesis and Research Questions.....	3
1.4 Disposition.....	3
2. Literature Review	4
2.1 Freedom of Expression and Censorship	4
2.2 Latin American Media.....	5
2.3 The Organic Communications Law.....	6
2.3.1 Background of the Law	7
2.3.2 The Official Statements	8
2.3.3 The Critics' Viewpoint	10
3. Method and Material	12
3.1 Justification of Method.....	12
3.2 Execution of Method	13
3.3 Criteria for Selection	14
3.4 Validity and Reliability	15
4. Results and Analysis.....	16
4.1 Presentation Rationale	16
4.2 Circumstances Surrounding the Law.....	17
4.3 Freedom of Expression.....	19
4.4 Government Control and Censorship	20
4.5 Lawsuits.....	22
4.6 Discussion.....	23
5. Conclusions	24
5.1 Results and Previous Research.....	24
5.2 Results, Research Questions and Hypothesis	25
5.3 Practical Implications	26
5.4 Limitations to the Study	27
5.5 Suggestions for Future Research	27
6. References	29
7. Appendices	31
7.1 Structured Interview Questions	31

1. Introduction

1.1 Background

The discussion on freedom of expression is of immediate importance around the world as a result of recent attacks on democracy and the free word, e.g. Paris in January, Copenhagen in February and Baghdad in May 2015. The Charlie Hebdo terror attack aimed at silencing a media organization that satirizes religion. Similarly were the Copenhagen shootings a direct onslaught on the free word since the public event where the first shooting took place was called "Art, Blasphemy and Freedom of Expression". One of the speakers, artist Lars Vilks, is believed to have been the main target due to his controversial Muhammad drawings from 2007. The Baghdad car bomb aimed at and succeeded in killing the Swedish-Iraqi director of the organization IWPR, Institute for War & Peace Reporting.

The right to freedoms of opinion and expression is in The Universal Declaration on Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) recognized as a human right under article 19 (United Nations, 2015). It is often considered fundamental in order to achieve other human rights (Article 19, 2015). The basis is the "liberty of the individual to be protected from arbitrary restrictions when participating in public debate" (Jørgensen, 2013 p.120), and the structures and conditions in which communication takes place.

Nonetheless, events such as Paris, Copenhagen and Baghdad serve as reminders that freedom of expression in its different forms cannot be taken for granted. Threats and dangers for journalists come from different directions, not only from terrorist organizations. The enemies of media are increasing in number at the same time as techniques to control press freedom are becoming more advanced. News media is in large parts of the world controlled from the very core of states: through its legislation (Rønning, 2013). Thus the free flow of information is in many countries regulated by governments, to different degrees. Reporters without Borders' World Press Forum Index 2015 released in February shows a decline in press freedom worldwide. The index rates the freedom of information in 180 countries during 2014 according to degrees of media independence and pluralism, safety and freedom for journalists, among other criteria (Reporters without Borders, 2015). The organization states that the decline in media freedom has affected all five continents and two-thirds of the surveyed countries did worse than in 2013. The Saudi Arabian regime does not allow any media independence and journalists use self-censorship out of fear from reprisals from authorities. In China journalists are arrested and often sent to prison by the Communist Party that controls the judicial apparatus. Rigged trials and forced confessions are not uncommon. In the Americas, Cuba is the most restricted country with very limited freedom of

information, as the government tolerates no independent press. Colombia and Venezuela are very dangerous places to work for journalists mainly due to threats from paramilitary gangs and organized criminal groups.

1.2 Ecuador

One of the fallers in the World Press Forum Index 2015 is the Republic of Ecuador, a northwestern state in South America. The country went down 13 places and now ranks number 108 out of the 180 countries examined, in regards to freedom of information. Unlike its neighbour Colombia, Ecuador does not bear the stamp of armed conflicts that are menacing to journalists. From the viewpoint of regime critics, it is instead the government that poses the greatest threat to journalists and the fall is heavily due to the implementation of the 2013 Organic Communications Law (OCL). According to the Secretariat of Communication (SeCom) it was necessary to create legislative mechanisms for the effective exercise of the rights of a free, intercultural, inclusive, diverse and participatory communication and press, in all areas of social interaction (SeCom, 2014). Critical voices in the national and international debate, however, are of the opinion that the OCL above all restricts press freedom and increases government control over media.

In a time when journalists are being shot, kidnapped and imprisoned it is essential to examine the forces of power that may cause and create insecurity for journalists. Despite globalization and the developments in international journalism from traditional views on foreign correspondence towards global journalism, Latin America can still be considered a blank spot in European media in general and in Swedish media in particular. The alleged interconnectedness that global journalism entails (Williams, 2011) is missing from reports on Latin America. The insight into Latin American societies that mass media offers is very limited and results in little understanding of the news that do reach the Swedish audience. For this reason, the current thesis takes the opportunity to bring out one of the countries that is rarely discussed in Swedish media, Ecuador. It seeks to shed light upon a government that through revisions of laws discards democracy and transparency and turns towards authority and control.

Overall global freedom drastically declined in 2014 and the negative development is heavily owed to a wave of terror attacks and regimes that move increasingly towards authoritarian rule (Freedom House, 2014). Freedom House's annual report Freedom in the World on the condition of global political rights and civil liberties shows that the democratic values on which most systems in the world are based, face a bigger threat than seen in the past 25 years. Freedom of expression, civil society, and the rule of law are affected with great

setbacks. The decline of online freedom by new repressive laws is also apparent and governments have begun to crack down on Internet activity after having focused surveillance and censorship to traditional media for years.

1.3 Aim, Hypothesis and Research Questions

The present paper explores freedom of press in Ecuador and scrutinizes the 2013 Organic Communications Law that was passed 14 June 2013 and went into effect early in 2014. It aims to discover consequences or effects of the law and professionals' attitudes towards it as well as to create an understanding for press freedom in Ecuador. The thesis takes a stand by the hypothesis that the OCL is perceived primarily as an attempt to increase government control over media under the guise of creating a freer and more diverse press. The thesis endeavors to test the hypothesis and answer the research questions below.

1. How has the Organic Communication Law been perceived by professionals in the journalistic field?
2. How does the Organic Communication Law affect freedom of press in Ecuador, according to experts?
3. Do media professionals experience that the Organic Communications Law has led to increased self-censorship and cautiousness?

In order to answer these questions the method of interviewing experts in the media industry in Ecuador is pursued. Chapter 3 offers a detailed description of the method and the five subjects of interviews.

1.4 Disposition

The current thesis is organized into seven chapters and is structured as follows. Chapter 1 contained an introduction to the subject of freedom of expression from a global perspective as well as a more specific presentation of Ecuador, the country of interest. The study's aim, research questions and hypothesis were also stated in this chapter. Chapter 2 gives an overview of recent research in the field and contextualizes the study by explaining the Latin American media situation and the case of Ecuador and the Organic Communications Law. The methodology and the reasoning behind it is accounted for in Chapter 3 as well as the procedure of collecting information. The interviewees and the criteria for selecting them are introduced. The fourth chapter offers an in-depth analysis of the material gathered through interviews and discusses the results of the study, which then continues in the fifth chapter.

There, the results are connected to previous research, the paper's research questions and hypothesis. It also gives an outline of practical consequences for media workers in Ecuador, delimitations to the study and suggestions for further research on the topic. Chapter six holds the list of references and lastly, chapter seven includes the structured interview questions in an appendix.

2. Literature Review

2.1 Freedom of Expression and Censorship

The first part of this chapter offers an insight into recent research on freedom of expression and government control over media that is central to the study. Rønning (2013) states that freedom of speech regards “the freedom of autonomous individuals to consume, create and distribute cultural expressions of whatever form, as long as they do not conflict with other fundamental rights” (p.21). In other words, everyone should have the right to opinions that differ from those of the cultural, economical or political elite. The notion of freedom of expression –speech and press– that entails expressing ideas and opinions without hindrance and fear of punishment, must also apply to communication systems of all kinds including the Internet (Rønning 2013). The present thesis adheres to these theories and definitions of freedom of expression. Similarly, Al-Saqaf (2014) affirms that hypothetically theories on free speech should transgress different means of communication, but yet there is a need to create theories for the new information society. He underlines that these should complement, not replace, traditional views. The main reason for the necessity is the change that Internet involves by making former consumers and recipients of information into creators and participants. This increased citizen power over information is not often appreciated by authoritarian or totalitarian regimes. In many cases, laws that protect and possibly enforce different types of freedom of expression have to be re-written in order to apply to the latest technological instruments for communication. However, laws are also reworked around the world for the opposite purpose: in order for governments to restrict citizens' rights to express themselves and information, accordingly, by making use of censorship. In such cases, the formulation of laws is crucial for them to make restrictions legally possible.

Al-Saqaf (2014) explains free speech and censorship as opposite concepts and defines censorship as “the act of restricting free speech” (p.91), which includes all sorts of expressions such as oral speech, print, broadcast media, the Internet etc. The online sphere appears more complex than the offline one: technical filtering software that blocks content not approved by the state, blocking of access to certain categories and “extensive state surveillance that may lead to self-censorship” (Jørgensen 2013 p.122) are examples of

methods used by governments to control individuals' online behaviour. The most restricted countries when it comes to censorship are also the most dangerous places for human rights defenders and journalists, according to Jørgensen. Syria, Saudi Arabia, Iran and China are examples of where kidnappings and imprisonments happen frequently. Nevertheless, at the same rate as Internet censorship infringes rights to free speech, technical solutions that combat censor tools are being developed, reports Al-Saqaf (2014). Thus technology may not only be used to inhibit rights to freedom of expression but also to protect and reinforce them.

A crucial part of freedom of expression is freedom of information. The right to receive information means that a government may not restrict access to information. As mentioned above the practise of censorship in many countries is not uncommon, and has resulted in international regulations being specified in order for individuals and organizations to be able to legally demand information. In 2011, a *General Comment* to Article 19 Freedoms of opinion and expression, of the ICCPR, specifically states the responsibility of State parties and public bodies to ensure free flow of information to all citizens (United nations, 2011). Berger (2013) points out that communication is always strongly connected to rights. When freedom of expression is violated on a continuous basis e.g. through legal systems, the voices of the people die out and whole societies are silenced, apart from the elite. Berger means that “the limited voices that they do hear are only of those who monopolise the power of expression for their views” (p.132).

The most visible form of the somewhat abstract concept of freedom of expression is undoubtedly press freedom. The content on any media platform can represent how well the right to freedom of expression is exercised, since the published online or offline material is a key indicator to what subjects, angles, opinions and cartoons are accepted. Berger (2013) defines press freedom as the right to public expression by journalists or non-journalists and also the expression of content of public interest. That is to say, all citizens of a nation have the right to receive information that is significant to them in any way and that information should not be kept private due to the interests of the forces of power or anyone else.

2.2 Latin American Media

In order to study media systems in Latin America it is important to have an understanding for the political setting in which they exist. The present section of this chapter and those that follow seek to contextualize the study by gradually becoming more specific.

The liberal democracies now ruling in the region are still incipient and some of them are no older than a few decades. The political landscape has shifted from conservatism to the left in recent years and left-wing leaders are democratically elected. For the first time in history,

presidents are not deposed and killed but instead, in several cases, re-elected e.g. Evo Morales in Bolivia, Cristina Fernández de Kirchner in Argentina, departed Hugo Chávez in Venezuela and Rafael Correa in Ecuador. However the dictatorships and elitist democracies of the nineteenth and twentieth centuries that carefully organized the media spaces to preserve them as control instruments, have left their mark on today's media structure. Globalization is overruled by national media systems throughout the region and authoritarian elements from the former dictatorships are still present today, or altered into refined means of media control and censorship. Some nations are not yet balanced between different powers and interests, and weak institutions, political confrontations and mass poverty characterize most Latin American societies, according to Lugo-Ocando (2008).

The process of privatization and deregulation in the 1990s led to concentrated ownership of media industries to the political and economical elite. Thus there is collaboration between politicians and the media and Lugo-Ocando states that media owners take advantage of the increasingly conspicuous role of media in politics for the benefit of their own agenda and interests. The mainstream media is informally a political actor since it is the traditional ally of the elites. This in turn contributes to an increasing social polarization and mass media losing credibility and legitimacy. Lugo-Ocando (2008) argues that media is becoming an "increasingly sophisticated mechanism of control, one that is less politicized and more oriented towards satisfying market needs within the ideological framework of the region" (p. 2).

Despite the fact that constitutions guarantee freedom of expression, institutions that protect constitutional rights are still frail and explicit censorship and strict media-state control exists parallel to the written constitution. Another reason is that free speech clashes with elite interests and is therefore combatted from various directions. Commonly, new legal framework strangles resources for oppositional media and restricts access to official sources. This in turn allows the governmental propaganda apparatus to develop (Freedom House 2014).

As mentioned above, Latin American mass media is characterized of highly concentrated ownership: about ten corporations are in charge of the media outlets that produce news destined for the world (Peschanski, 2007). This consequently means that communication companies are part of larger groups of companies or involved with other business sectors and need to protect their interests. In other words, mainstream media is muzzled and follows a clear agenda that defends the financial and political elite. Thus mainstream media carefully choose what subjects to report on and from what angles. Peschanski argues that main stream media is a tool to express propaganda and that journalists who work within corporate

journalism sacrifice their neutrality and objectivity by doing so. He sees communication as a “political arena in which social actors and forces struggle to achieve cultural hegemony in a community” (2007 p.157), and that journalists always take a political stand in choosing work place; there is no possible neutrality when there are political forces of oppression that criminalizes dissidents.

According to Peschanski, alternative or independent media in Latin America is synonymous to the defence of the suppressed and its purpose is to communicate the reflections and opinions of the oppressed people, who are rarely given the opportunity in mainstream media. He underlines the fundamental differences of the two types of media being that the former spreads a doctrine and the latter stimulates critical reflection.

2.3 The Organic Communications Law

2.3.1 Background of the Law

This section pinpoints the environment in which the OCL was developed. The vast majority of media outlets in Ecuador are privately owned. Meanwhile, the government controls at least 20 print and broadcast outlets. The private outlets without government influence have strained relations to the same, as they are still -according to law- required to broadcast, both on TV and radio, messages and programmes that promote government agenda on a daily basis. These programmes are called *cadena*s (chains) and spontaneously interrupt scheduled programmes and sometimes include attacks on government critics. Private stations are encouraged but not required to air President Correa’s own show *Enlace Ciudadano* (Citizen Link) which will be further discussed in 2.4.2. The fact that the government is the country’s largest advertiser contributes to further political control over privately owned media. The hostile media climate and open threats by President Rafael Correa makes it increasingly difficult for independent journalism to operate (Freedom House, 2013). Javier El-Hage, Human Rights Foundation’s general counsel said in 2014 that “Ecuador is no longer a democracy in which journalists can question their government without fear of reprisal.”¹ He stated that journalists who work for independent media no longer report on issues such as government corruption out of pure fear.

Economist Rafael Correa was elected President in November 2006 and took office in January 2007. His victory was partly owed to his promise to create a new constitution for Ecuador. A constitutional referendum was held in September 2008 and the new constitution was approved (Presidency of Ecuador). Articles 16 to 19 in the third chapter concerns

¹ <http://humanrightsfoundation.org/news/ecuador-hrf-condemns-systematic-restrictions-on-press-freedom-00401>

communication and information. For reference purposes I quote two of the articles below.

Article 16 states that all persons, individually or collectively have the right to:

1. Free, intercultural, inclusive, diverse and participatory communication, in all areas of social interaction, by any means and form, in their own language and their own symbols.
2. Universal access to information and communication technologies.
3. The creation of social media, and equal access to the use of the radio spectrum to manage radio stations and public, private and community television, and free use of wireless networks bands.
4. Access to and use of all forms of visual, auditory, and other sensory communication that allow the inclusion of people with disabilities.
5. Integrate opportunities for participation under the Constitution in the field of communication.

Article 17 declares that The State shall promote the plurality and diversity in communication, and consequently:

1. Ensure the distribution, through transparent methods and on equal terms, of the radio spectrum for the management of radio stations and public, private and community television and free access to frequency bands for the operation of wireless networks, and ensuring that the collective interest prevails.
2. Facilitate the creation and strengthening of public, private and community media and universal access to information and communication technologies especially for people and communities who lack or have limited access.
3. Do not allow oligopoly or monopoly, direct or indirect, of the property of the media and the use of frequencies.

(Ministry of National Defense, 2008) translation by author

However, the President must have considered the articles on communication and information inadequate because two years after the new constitution had been voted through a new communications bill was brought to the table for consideration, four years into Rafael Correa's presidency (Freedom House 2012).

2.3.2 The Official Statements

The General Regulations of the Organic Communications Law were issued in June 2013 after several months of discussions in the National Assembly. The new legislation was, officially, supposed to democratize the media landscape and promote pluralism and diversity. The first article declares its fundamental purpose being to protect the communication rights stated in

the constitution. The 119 articles in the law include regulations relating to online media, online content, communication activities, information of public interest, ethical codes, ways of exercising rights of correction and reply, the protection of intellectual property rights of communication content, prior censorship by omission, information on crimes and protecting the identity and image of individuals.

Examples of regulations are as follows. In regards to digital media, it is established that those individuals who operate on Internet platforms such as social media, are also considered “media”, if they distribute informative content or their opinions e.g. through sharing news articles. Thus the users of social media have the same rights and obligations towards the OCL as the creators of social media networks (Article 5). “The right to reply” means that citizens can request an amendment or reply through a letter or recording. The media outlet (newspaper, radio/television show) will then have to publish the correction or reply in the same space or programme from which the content that generated the complaint was spread. In regards to musical content in radio broadcasts, the law provides that 50% has to be written or produced in Ecuador and played either consecutively or alternated with international music segments. It is also stated that five years after the law has been passed, it will be an indispensable necessity for anyone who wishes to work with the production or diffusion of journalism professionally, to have the appropriate professional qualification or certification of skills. The Ministry of Higher Education, Science, Technology and Innovation (Senescyt) will initiate technical or technological education programmes related to journalistic activities where aspiring journalists can obtain the certificate needed to work in Ecuador. SeCom declares that the Vocational Training Service (SeCap) will begin the certification process for journalists within six months from the effective date of the OCL.

As reported by the government’s official website President Correa stated in an interview with CNN in Spain in May 2014, that OCL is not a media law but a law of communication for citizens who seek professionalism of journalists, and that it aims to defend citizens' right to object to something that they do not agree with that has been written or said in media and receive a public reply. Further he said that another purpose is to regulate the great powers that the media organizations hold over the public opinion, culture and society in general. The law should fulfil citizens’ right to receive correct and independent information (SeCom, 2014). Moreover it established two telecommunications and media regulatory bodies: The Superintendence of Information and Communication (SuperCom) and the Council for the Regulation and Development of Information and Communications, that are to supervise media content.

2.3.3 The Critics' Viewpoint

The fall in the World Press Forum Index 2015, previously referred to in 1.2, is primarily due to the enactment of the OCL, which will be discussed below. Although, the impairment of press freedom has been a process as the media environment has gradually become more hostile since 2010, the year when the President turned to a stigmatizing discourse. He began to disparage the media and particular journalists openly e.g. by referring to them as “assassins with ink” (Freedom House, 2012) in his weekly TV-show *Enlace Ciudadano*, which literally translates to *Citizen Link*. He also tore newspapers apart and called them corrupt on several episodes (YouTube, 2012). The three to four hour-long show has been broadcasted every Saturday since 2007. The first year one of three set topics in the show were “Interviews with journalists” when the President answered journalists’ questions. This segment was however removed within a few months after the scandal when the President on live TV ordered plain-clothed policemen to evict his guest on the show, opinion editor Emilio Palacio from the independent newspaper *El Universo*, from the studio, during a discussion on press freedom. Correa said that the journalist had offended his family and forbade, on live TV, all journalists to ever mention his family (YouTube, 2011). Two years later, the segment “Freedom of expression for everyone” was included, but it does not appear to include journalists’ viewpoints, but the purpose rather seems to be for the President to reject the week’s news articles and their writers, that he does not agree with (Ecuador TV, 2012). The show is now broadcasted by 54 radio and TV transmitters and is among the opposition generally considered the President’s propaganda machine’s principal instrument to reach out to citizens (Freedom House, 2014).

Critics argued that the motive behind the law was to strangle the independent press by introducing demanding obligations on journalists and news organizations regarding content and corrections, prior censorship by the state, stricter journalist licensing and several other tools that would signify extensive government control over what information media diffuse. Accordingly, it was in the middle of 2013 that the National Assembly approved the President’s proposal of the Organic Communications Law that had been under consideration for over three years. The controversy that has arisen in regards to the law concerns, in the main, dangers to the constitutional liberty of freedom of expression. The main characteristic of the law is the transformation of the right to freedom of thought and expression into a public service, according to Montúfar (2013). He argues that the law imposes obligations and administrative sanctions that go beyond what is accepted as legitimate freedom of expression, to create a framework for control and state intervention in the media. Montúfar further claims that the practical meanings of the law contradict with the theoretical implications, as the focus

of the law is to filter information that is disseminated through media: the interference of the State in news production seriously reduces the freedom of the citizens.

Freedom House states that President Correa has turned Ecuador into one of the most restrictive countries for freedom of expression in Latin America. In early 2013 the organization recognized the declining press freedom in Ecuador and changed its status from “partly free” to “not free”. The rating was thus changed before the implementation of the OCL due to a considerable reduction in political and investigative reporting. In the two years that has passed since then, the application of the law has resulted in an increasingly polarized media landscape and prosecution of journalists and media organizations, specifically of those who are unwilling to issue corrections ordered by the President (Freedom House 2014). Not obeying to “the right to reply”, explained in 2.4.1, that is.

Another topic that has been much discussed is that of censorship. The vague and sometimes ambiguous wording in many of the clauses opens up for speculations on what the law actually means. According to article 18 the OCL prohibits “prior censorship” (National Assembly, 2013) which might give the impression that the state may not censor independent press and ought to let them decide freely what to publish. Instead, it seems to mean to regulate media’s power over what topics they choose to cover, due to the second half of the article, where it is established that the press must “cover and disseminate events of public interest” and if they deliberately omit such coverage they commit the criminal act of prior censorship. According to Freedom House, the purpose of the two media regulatory bodies, mentioned in 2.4.1, is to determine the “truthfulness” of information, which implicitly opens up for censorship and self-censorship. It also introduces the concept of “media lynching”, explained as the spreading of information intended to harm a person’s reputation or credibility. This can by critics translate to an indirect warning for journalists to write negatively about the President and the Government.

The Human Rights Foundation reported in September 2014 that the law by then had resulted in over 100 legal proceedings of journalists and the closedown of the print edition of four newspapers including *Hoy* and *La Hora* (Human Rights Foundation, 2014). Total attacks, physical, verbal or legal, on journalists and media organizations by authorities reached the number of 254 by the end of the year, according to the national watchdog organization Fundamedios - expression of freedom. The number can be compared to 156 in 2011, 172 in 2012 and 174 in 2013; thus an increase of 46% from 2013 (“Ecuador: Censorship Rides on the Back of a Law” 2014). Many of the legal proceedings filed by President Correa supporters include complaints about newspapers *El Universo*, *El Comercio*, *Hoy*, and *La Hora*, engaging in “prior censorship” by not reporting sufficiently on the

President's official visit to Chile in May 2014. Throughout the month of May they were called "corrupt and mercantile" by the President on his show (Human Rights Foundation, 2014). The Guayaquil based newspaper *El Universo* is among the media outlets that appear the main targets for the new media legislations. The first libel case was filed against columnist Emilio Palacio in 2011, before the implementation of the OCL, for an opinion piece that criticized President Correa's actions during a police revolt in 2010. The directors of the paper, brothers Carlos, Nicolas and César Pérez were sued for \$80 million and faced a three-year prison sentence. The case received much attention internationally and after many trials and pressure from organizations such as Human Rights Watch and Committee to Protect Journalists, the sentence was suspended. The past year's dispute between government and *El Universo* has mainly concerned the cartoonist Xavier Bonilla known by his pen name "Bonil" and his political cartoons published in the newspaper. Among other penalties, SuperCom fined the outlet 2% of its average turnover for the last three months of publishing a cartoon that represented the search and seizure of a journalist's computers. Other cases during 2014 include lawsuits against five TV-stations, nine radio stations, one magazine and 13 newspapers (Fundamedios, 2014).

3. Method and Material

3.1 Justification of Methodology

As previously mentioned (1.3), the aim of this paper is to explore what consequences the Organic Communications Law might have had to media organizations and professionals within the media business in Ecuador. Further it seeks to unveil how the law affects freedom of expression. This way, I seek to explain and create understanding for the current situation in Ecuador in regards to media and press freedom. In order to do so, qualitative data have been collected through interviews. The method of interviewing was chosen over Content Analysis (CA) and Critical Discourse Analysis (CDA), which were considered possible methods at early stages but were eventually discarded for different reasons. Principally because I, the author, had the opportunity to spend four weeks in Ecuador during March and April 2015 and in my estimation by using the interview method I would derive the most advantage of my stay in the country. Hence CA and CDA were rejected because of the fact that I could have realized a content-based study by e.g. studying newspaper articles written on the topic online and without traveling to Ecuador.

Interviewing as method of inquiry was also chosen due to the desire to gain as much insight into the interviewees' experiences and conclusions of the Organic Communications Law as possible. "At the root of in-depth interviewing is an interest in understanding the

experience of other people and the meaning they make of that experience” (Seidman, 1998, p 3). In other words, interviewing was chosen because the method would allow the subjects to give the broader context by providing background information, referencing to other times and certain events that would increase the interviewer’s understanding of the setting of the law under investigation. The narrative approach (Hollway and Jefferson, 2000) where interviewees function as storyteller more than respondents (p. 31) was selected so that they could develop answers freely and direct responses the way they felt most appropriate. Furthermore, this approach is according to Hollway and Jefferson suitable “when the research question involves understanding people’s experiences through their own meaning-frame” (p. 155, 2000), which were the case for the current study.

An additional reason for choice of method was the subject’s sensitive nature and the possible occurrence of censorship and/or self-censorship before publishing articles, I wanted to find out what professionals in journalism would *say*, not what they had written, which I thought might differ. Furthermore, only through interviews could I learn what the media and journalists may have chosen *not* to publish and their reasons for it. Such information would be impossible to uncover with CA or CDA. The results of my study are based on the informants’ interpretations, experiences and opinions about the topic, or more accurately: my interpretations of the interviewees’ answers. In choosing type of method, I also considered interviewing to be the most appropriate method to answer my research questions.

3.2 Execution of Method

A combination of structured and semi-structured interviews was used. The structured part consisted of a set of more or less open-ended questions that all interviewees were asked (see 7.1), this in order for the interviewer to avoid subjectivity and preconceptions, as the questions were the same regardless of the interviewees’ profession, position, experience and political standpoint. The structured part also facilitated the comparison between the interviewees’ answers when analyzing the data. Yet structured, the questions were relatively open-ended in order to make the informants feel comfortable to emphasize or add what they felt important about the topic.

In order to answer the first research question (see 1.3) I asked how the interviewees experienced the OCL to have been perceived by journalists and other media professionals, independent media and civil society. I also wanted to explore their views on the background to the law and the surrounding situation with the aim of understanding why and how the perceptions of the law could have arisen (interview questions 1-5). To gather information for the second research question I asked what they believed to be the main consequences of the

law and whether they think it has affected freedom of expression. Further I inquired about legal cases connected to the OCL and if the interview objects knew if there has been an increase in lawsuits against journalists after the law came into effect. I also asked about their predictions for the future to find out what the long term affects to press freedom might be (interview questions 6-7, 9-10, 12). Lastly I asked about the potential influence of the law on censorship and self-censorship and whether they recognized a persecution of journalists or not (interview questions 8, 11). Through these questions it was possible to answer the third research question.

The semi-structured part of the interviews aimed at finding out as much as possible about the topic as it allowed me to ask follow-up questions. These were invented during the interviews and included questions about the background to statements made by the experts and requests for further elaboration on persons (former presidents, judge, journalists) incidents and legal cases that were mentioned that I was not familiar with. All interviews lasted between 45 minutes and two hours.

3.3 Criteria for Selection

Below I introduce the interviewees in alphabetical order. In accordance with them, I choose to present them by their full name so that the reader may search for further information about them online, as they are all more or less well-known public figures in Ecuador. The five interviewees represent different parts of the Ecuadorian media sphere and were selected based on their alleged knowledge about the OCL and their different professional positions. Among the experts there is a CEO of an association that gathers the editors of the country's largest newspapers, a journalist who works for a non-governmental organization, a former politician of the opposition and author of a book about the OCL called *The Rules of Silence*, a director of a large unofficial government opponent newspaper and a journalist who works for the state-owned newspaper with the greatest circulation. The combination of knowledge and experience of the Ecuadorian media terrain that these individuals could offer was considered appropriate basis for the empirical data collection of the study.

Cornejo Menacho, Diego. Former journalist at *Hoy* newspaper, novelist, CEO of AEDEP: Ecuadorian Association of Editors of Newspapers (*La Asociación Ecuatoriana de Editores de Periódicos*)

Interview April 1, Quito

López Vigil, José Ignacio. Journalist and radio producer at NGO *Radialistas*

Interview April 2, Quito

Dr. Montúfar Mancheno, César. Journalist, politician, former member of the National Assembly, PhD in Political Science, professor and director of Department of Social and Global Studies at *Universidad Andina Simón Bolívar*

Interview April 1, Quito

Perez Barriga, César. Managing co-director of independent national daily newspaper *El Universo*

Interview March 30, Guayaquil

Yépez, Diego. Author and journalist at government owned newspaper *El Telégrafo*

Interview April 2, Quito

3.4 Validity and Reliability

I, the interviewer, intended to present myself as neutral to Ecuadorian policies in general and the thesis topic of the Organic Communications Law in particular. I found it crucial to not side openly with government or opposition or any other political groups in Ecuador, Sweden or elsewhere. This I wish to emphasize as an important part of the methodology as I thought the interviewees' replies might differ if they thought I had the same political opinions as they or if they differed. Therefore I aimed at being impartial and unprejudiced before, during and after the interviews. Similarly, the interviewees were not chosen on the basis of their political standpoints but rather on their alleged knowledge about the OCL and the media terrain in Ecuador.

All interviews were conducted in the informants' native language Spanish and I did not use an interpreter. All questions asked, notes taken and recordings were in Spanish and I later translated parts of the material into English in order to facilitate the writing of the thesis. Due to my higher level of proficiency in English than in Spanish I first considered asking the informants if they would agree to speak English with me. Though I discarded the idea before the first meeting as I decided that the outcome would be more valuable would the informant speak in his native language. My shortcomings in the Spanish language would not affect my interpretations of the answers to a large extent as I could use dictionaries and help from other persons afterwards. It is important to note that the outcome might have looked different had the interviews been performed by another person. A native speaker of Spanish had, for

example, probably benefited more from the semi-structured part by being able to formulate follow-up questions flawlessly.

My purpose for going on a field trip to Ecuador was principally to conduct the interviews, but also to be able to get a picture of what people who are not working in the media industry, know or think about the OCL. In addition to that I wished to observe whether the law is a current subject in the media or not by reading newspapers and watching televised news. These informal observations helped me to gain a clearer understanding about the law in connection to Ecuadorean society and how well known it is, but I have not drawn formal conclusions and I will not present any results from these reflections. The paper does not aim at revealing an absolute truth but rather examples of perceptions of the conditions and consequences of a recent national legislation.

4. Results and Analysis

4.1 Presentation Rationale

Recordings were made and notes were taken during the interviews and thereafter organized and categorized into four different categories of analysis; *circumstances surrounding the law*, *freedom of expression*, *government control and censorship*, and *law suits*. This has been done in order for the author to analyze the interviewees' attitudes in a structured way and facilitate the reader's understanding of the different themes that concerns the Organic Communications Law in the present thesis. The four categories created for the presentation of the analysis were chosen based on both the research questions and the interview questions. That is to say, the categories correspond to the questions. The category *circumstances surrounding the law* includes the most important answers given to interview questions 1-5, which in turn answers research question 1 about media experts' perceptions of the law. The second category *freedom of expression* offers answers to research question 2, which concern effects on press freedom, and interview questions 6-7 and 12. *Government control and censorship* is the category that covers interview questions 9-10 and respond to research question 3, about self-censorship. The category *lawsuits* serve as a section of concrete examples of consequences of the OCL, in order for the reader to be able to make connections between the various stages of the implementation of a new law. This category connects to all three research questions as it exemplifies experts' views on the OCL, consequences for press freedom and the practice of censorship.

The four categories include quotes, main points made by interviewees, analysis, and conclusions drawn from the interviews. After the thematic presentation of results, a general discussion that includes all four categories follows.

4.2 Circumstances Surrounding the Law

Newspaper director Perez gives his view on the OCL by first explaining the historical background to the media and political scene in Ecuador. He says that his newspaper has been in dispute, dormant or actively, with the reigning government ever since his great grandfather founded it in 1921. Both democratically elected presidents and dictators have always acted as their enemies and Perez partly blames the historically tense relations between the ruling party and the media for today's hostile environment. He believes the cause to be the newspapers' strive to be independent from state power and says that leaders have not wanted to accept the media organization's choice to not be influenced or manipulated by pressure from ruling powers. Perez claims that President Correa has attacked the press in general and his newspaper *El Universo* in particular since he came to power. He says that the newspaper is against authoritarianism and violations of democratic values but that they are not opponents: "we do not want to be opposition, but rather in the centre". As an example of the long-term disagreement, Perez describes the meeting between his father, previous owner of *El Universo*, and former president León Febres-Cordero in 1993 when his father proudly showed the ex-president his new printing press. Febres-Cordero's reaction was the comment: "so much machine just to make a fool out of me every day". With this story Perez personalizes the hostile situation between the ruling power and media companies – a state that appears to be continuous and was embodied partly through the OCL. Correa makes similar comments about the press on his Saturday show and in that way probably aims at turning his followers against the non-governmental media.

Perez describes the creation of the OCL to stem from the President's "obsession to control everything" and make punishable offences of civic rights. He believes that it was the lawsuit that he was part of in 2011-2012 (see 4.4) that led to the final implementation of the OCL in 2013.

NGO journalist López' analysis of the OCL is based on his perception that there are different sectors of the government with different objects for the OCL; the progressive sector aimed at democratizing media and communication organizations and another very conservative sector targeted control over information. In that way, López is not as certain as Perez that the intention was for the government to reign solely over media but he is much more diplomatic. Of course, he has not been through a law suit that the President himself filed against him, while Perez inevitably emanates from that experience. López says that Ecuador was in great need of a renovation of the communications law as the former one was antiquated and argues that most people would agree with him on that.

Politician and author Dr. Montúfar describes the OCL as part of a legal system with the purpose of controlling the public opinion and the information that citizens receive and may produce (on social media etc.). He thinks that the communications law together with electoral and penal laws was designed to criminalize journalism and calls the combination of laws and a forceful propaganda machine a “schemed attack” against the media. CEO Cornejo also sees Correa’s weekly show as an “organized attack” of the press. He says that he and AEDEP (Ecuadorian Association of Editors of Newspapers) were not initially against a communications law but turned very sceptic when learning of its content. His primary concern is the fact that the law defines communication as a public service, not as a citizen right. “This has very complex effects because a right that is natural in a democracy becomes a state-controlled service of which the government thus have to right to perform quality control. This in turn means that they control media content”. Journalist Yépez and López agree that this is a serious problem and predicts the future as increasingly difficult for media workers and owners. López says that everything is in the hands of SeCom, which he prefers to call “Ministry of Propaganda”.

Cornejo believes that the Ecuadorian regime has been inspired by the cases of Cuba and Venezuela (where press freedom is extremely limited) but also warned by their examples and has therefore created a very sophisticated law that does not appear as an obvious threat to human rights. He thinks that the final goal of the OCL is to eventually close down all independent media and fears that this will happen due to the extremely clever design of the law. Yépez however, does not think that the government aims at closing down media organizations but rather to influence the media and broaden their “control area”. He believes the reason for this intention to be the great power that the media hold in regards to the public opinion and the President sees media owners and influential journalists as threats against him personally. This alludes to Perez explanation of the historical poor relations between the President and the media and shows that Rafael Correa most likely aims at silencing oppositional forces in media that may raise voices against him.

All five interviewees thus have similar perceptions of the OCL (research question 1) as they define the law as a control mechanism invented by the government and that it is part of their hidden agenda to increase their influence on the news industry. However, the subjects express this to varying degrees and López and Yépez are certainly more pro-government when analysing the OCL, in comparison to the other three. Conditions for journalists seem to have changed rather drastically in the past year, regardless of their workplace.

4.3 Freedom of Expression

Perez thinks that the effects on press freedom is complex and varies greatly between those directly affected by the OCL, such as journalists, and laypersons. He says that the government has succeeded in manipulating civil society into believing that they have created a law that protects free speech and constitutional rights. The masses believe what the President says “blindly”, without demanding background information or evidence. “When Correa says that “now there is freedom of expression”, people believe him”. Perez also brings up restrictions which the law embraces that concerns reporting about ongoing lawsuits: that is no longer allowed but instead it is penalised. This is an example of consequences to freedom of expression that mainly professionals within the field would notice. He says that the penalization is due to the extensive reporting on the *El Universo* case that reinforced the public opinion against the President’s case, and therefore the possibility to rouse public opinion about legal cases has now been removed.

The president's ability to convince people of something only by saying it is certainly a combination of the desperate longing amongst the Ecuadorians for a leader who is not only engaged in politics for personal gain and Correa’ charisma and rhetorical skills. It is far more comfortable to believe in his word than to challenge even a leader.

Yépez, unlike Perez believes that the press is still free in Ecuador and that freedom of expression is such a fundamental right that it cannot be taken away easily or rapidly. He adds that journalists have to be more careful and likewise media owners because it has become somewhat more difficult to keep within legal limits when writing and publishing. This statement appears somewhat contradictory and it seems that Yépez tries to be careful not to criticize the government at the same time as he expresses implicit yet obvious critique. His cautiousness appears well thought-out but he also seems to be saying more than he had planned.

Instead of democratizing the media and information flow like the government claims to do with the current communications law, Montúfar means that they with the law conceal problems of corruption and other sensitive subjects that they do not want reports on. That way, the law “strangles freedom of expression”. Cornejo says that it appears as if corruption no longer exist in Ecuador because “what is not investigated and what is not published does not exist”. He says that investigative reporter teams are disappearing from news organizations and sees this as one of the most serious consequences of the OCL. This statement strengthens the presumption that the general public are not aware that the law too affects them. It is certainly a frightening insight that people may think that e.g. the economical crime rate has reduced when the problem is in fact worsening: corruption continues but it is no longer

reported on. Further Cornejo means that the liberty of publicists to decide what they want to publish no longer exists, but the decisions are rather in the hands of the government given that by law they can fine media outlets for not publishing news of “public importance”.

Cornejo says that everyone are subjects to popular justice in democracies and underlines that SuperCom, however, is not a regular court of law because it has no autonomy from the government and responds directly to the political power. López agrees with him as he says that all judges who work for SuperCom are former government officials. Hence the regulatory body of SuperCom seems to have been created for the benefit of the government and lacks neutrality, as it is part of the governmental power machine.

López considers the violation against rights of freedom of expression that are stated in the Ecuadorian constitution and article 19 in the UDHR, the most serious controversy with the OCL. He says that the government were recommended to change the contents of the law by the United Nations (UN) prior to the realization but such recommendations were ignored. Cornejo says that the law goes against the constitution “not in theory, but in practise”, and that its sophisticated formulations cannot conceal the severe results of the law, “noticeable within months of the execution of the law”.

This analysis underlines that the Communications Law has caused severe risks to freedom of expression and press freedom in particular in Ecuador (research question 2).

4.4 Government Control and Censorship

Perez emphasizes that the law is made to suffocate media organizations. The law does not close newspapers but he is convinced that it is the hidden long-term purpose of it and that it is evident when one studies the 25 page long law closely. By imposing fines on media owners and duplicating them when they are not immediately paid, some media will have to eventually close when they can no longer pay the fines. In that way, the government can safely say that the law does not close down media; directly. Perez also says that this is the government’s motive for including sanctions for social, racial and sexual discriminations in the law. Newspapers are for example sanctioned and fined for comic strips if someone reports it to authorities as discriminative, see 4.4.

The Organic Communications Law promotes Ecuadorian music by including the obligation of 50% distribution of nationally composed and produced music. This is according to Perez a propaganda trick so that musicians and artists will hail President Correa for advocating national music through the OCL. Although Yépez believes the same segment of the law to be an act for “cultural preservation” and that music was included in the law because music is largely a tool of communication. These different views can serve as examples of the

ambiguity that characterizes the law. It indicates that the law is designed to be interpreted in a certain way and to be used in a different manner; Yépez here analysing the law content in the way that was probably intended by the government while Perez looks beyond the surface for the disguised purposes.

Perez and Montúfar think that the government have succeeded in creating a “control instrument” with the OCL in function and that it serves them well to control the flow of information. Perez and Cornejo fears that the public are still indifferent to the OCL and do not realise that it affects them too as consumers of news. Cornejo says that people will not bother to object until it affects them directly but he has noticed a general frustration about the *cadena*s which interrupt programmes with government information. Montúfar on the other hand, believes that civil society will not accept such an authoritarian regime for much longer and that people started to react when the first case of the lawsuit against Bonil’s cartoons became known in 2014, see 4.4. He finds it absurd that the law is used against humorous elements in newspapers and hopes it will lead to louder protests among civilians. He underlines that voices have been raised against the persecution of journalists in the past year.

Perez, Montúfar, Cornejo and Yépez say that the OCL has increased self-censorship in Ecuador to a large extent and that this probably is the most serious consequence of the law. Perez says that he is forced to censor his newspaper without wanting to and that ideas about investigations often are discarded as too risky: “You have to think, rethink and rewrite”. Similarly, Montúfar feels that the media and journalists must be much more careful nowadays and decisions made about what to publish are based on legal dimensions, not communicative or informative values: the legal discussion on what content might violate the OCL is indispensable. López agrees that self-censorship is a danger since investigative journalism has practically disappeared because journalists do not dare to investigate anything that has to do with the government. There is a sense of fear of reprisals for expressing opinions, even on social media. He says that there is “indirect persecution” of journalists through self-censorship and defamatory events. For example, this May 1 in the procession of demonstrators in favour of the government, they carried coffins with attached photos of oppositional journalists. However, López also sees a positive side to censorship, as the press are more careful with publishing rumours, they now tend to verify sources of information before publishing.

Cornejo thinks that there is no longer “public media” but instead “governmental media” in Ecuador given the creation of approximately 30 new media outlets by SeCom since the implementation of the law. He considers all these media outlets part of a huge propaganda machine – because these authorities of information do not allow input or opinions from other

sources than the government. His conclusion of the law is that it is an “instrument to frighten to press”. He and López predict a dark future for journalists and media organizations and say that everything depends on politics; the media do not have much power left to influence its own future.

In summary, direct and indirect censorship is part of and functions as tools of an increasing governmental control over the flow of information. All experts interviewed agree that self-censorship has augmented with the introduction of the OCL (research question 3).

4.5 Lawsuits

The year after President Correa had introduced the project of making a new communications law (2010), the most high profile libel case in many years began. *El Universo* opinion editor Emilio Palacio was accused of having criticized Correa’s actions at a police uprising in 2010. As legally responsible for the publication, Perez and his two brothers were sentenced to three years in prison and were sued for \$80 million. Trials lasted for a year and judges were changed constantly at the President’s request, at one occasion the judge was Correa’s lawyer’s best friend, according to Perez. The case received much attention internationally and after pressure from organizations working for press freedom such as Reporters without Borders, Freedom House and Human Rights Watch; the President finally pardoned the accused in February 2012. Perez and Montúfar describes the process as unbelievable and absurd and say that it was Correa’s first serious attack to intimidate the Ecuadorian press and that the outcome convinced the President to carry through the communications bill; so he would not need to withdraw accusations next time. Cornejo says that according to the new law the owners of a media outlet are co-responsible for what columnists write, not only for the published news.

The most discussed case in 2015 is that of renowned cartoonist Xavier Bonilla known as Bonil. He has been prosecuted repeatedly for his cartoons in *El Universo*, where he has published humoristic cartoons of e.g. members of parliament and political events. SuperCom has fined him for discriminatory content, and condemned the drawings to be racist and/or violent, but the cartoonist escaped a prison sentence. All five experts recall the loud protests on social media in favour of Bonil and Yépez and 5 witnessed the street protest on March 19 2015 where civilians supported the cartoonist by marching to the Presidential palace in Quito.

SuperCom has also fined the newspaper for a comic strip that they consider includes racism, sexism, machismo and violent elements. Perez says that his newspaper will keep paying the fines and they will not let go of their cartoonist nor exclude their comic strip. The paper has also been penalized to publish public apologies for several publications on the cover

page, a penalty that will not stop them from publishing content that according to Informant 1 is the “personal and rightful opinion of a journalist” He adds that SuperCom tried to fine them for publishing the best photos from World Press Photo 2013, for containing “violent depictions of violence” but that the case was discarded.

The shutdown of newspaper *Hoy* in August 2014 is according to Cornejo and Yépez the most severe consequence of the introduction of the OCL. Cornejo says that the government considered *Hoy* the most oppositional newspaper in the country and that it had to shut due to an advertising boycott, restrictive regulations (OCL) and direct and indirect attacks from the government.

These examples of lawsuits filed against journalists and media organizations show that the consequences of the OCL can be very tangible despite the cryptic formulation of the law, which relates to all three research questions. It is thus essential to seek for the hidden meanings behind sophisticated law paragraphs.

4.6 Discussion

There appears to be a gradual decrease in press freedom in Ecuador and the Organic Communications Law is, most likely, a principal reason for the negative development that restricts press freedom. Limitations to constitutional and universal human rights to freedom of expression is a serious offence and national laws should not be able to transgress such rights. However the ambiguous formulation of articles in the OCL makes it possible, at the same time as the law even contradicts itself. For example article four explicitly states that it does not regulate any information or opinion published or shared on the Internet. However, several other articles can be invoked to prosecute social media users that are critical of the President. The law thus appears subjective and designed to protect its creators the government and not democracy or constitutional rights. This conclusion gains ground with the statements made by the interviewees about SuperCom that is the authority that functions as the government’s right hand. The body’s non-independence from the government is a fact and hence it will probably mostly judge to the government’s advantage.

In article 22 it is declared that everyone has the right to receive “news of public interest that are truthful”. This statement can supposedly be invoked if a media reports on political events or processes that the government would prefer to keep private, they could thus claim it both to not be of public interest nor true. Almost all the experts agree that self-censorship has diffused and become the norm after the introduction of the law, to different degrees. It is however difficult to find evidence of it since consumers of news do not see what is not published or broadcasted. The abstractness of self-censorship is a possible reason for the

seemingly vague interest among the general public, correspondingly Cornejo argues that people might think that corruption has disappeared because it is not reported on. At the same time self-censorship must be very concrete for journalists who practise it on a daily basis and notice the gradual elimination of investigative reporting. Article 18 could be used to justify censorship of critical news content since it promotes diffusion of “public interest events”, that is to say if other news have to be moved or taken out to make space for the other article that the media feels forced to publish. Hypothetically a complaint could be filed saying that there was incomplete coverage of an event e.g. a state visit by the President which means that another news filled that space, and the next time the media might chose to discard the other news story and report on e.g. presidential matters from the start. Also, what content is of public interest is likely to be determined by the subjective Rafael Correa administration or SuperCom. These elements serve as evidence that the OCL severely affects and threatens freedom of press in Ecuador and that self-censorship has increased and thus connects to the first, second and third research questions.

The law seems to work from the inside and out; it is the implicit consequences of the law that breaks other laws such as the constitution and human rights, not the explicit formulations of the law. In other words, what seems as vague insinuations in theory might have serious results in practice, as seen in e.g. 4.5 with the many law suits lately. Another clear example of that are the economical sanctions (among other factors) that led to a newspapers’ bankruptcy, explained by Cornejo. Another example is the supposed prohibition of censorship leading to just that, self – and governmental censorship.

The alleged inherited bad relationship between the ruling party and the media can possibly be to the advantage of the Governemnt in office since most of the President's actions can be seen as "good", compared to past presidents’ and dictators’ behaviours. That is to say, even if Rafael Correa delivers streams of abuses of journalists, he does it under the name of freedom of expression and thus people believe it to be right, in consonance with Informant 1’s perception. Given the country’s political history, a former leader has probably done worse in the past and President Correa can safely continue in like manner without losing the public trust.

5. Conclusions

5.1 Results and Previous Research

The results of the study follows the approach to freedom of expression presented in the introduction and literature review chapters. Ecuador can be considered a clear example of a country whose free flow of information is decling drastically with a development that is

unfavourable to journalists and news organizations as it limits their freedom of expression and publishing. More particularly it embodies Rønning's discussion (2013) on states whose media is regulated through legislative framework and the government. It is consequently also a negative advancement for citizens as consumers of news if they are unable to obtain information that is valuable to them. Al-Saqaf's definition of free speech and censorship as opposite concepts (2014 p.91) is an accurate argumentation for the results, as it appears to be aligned with the informants' viewpoint of censorship and restrictions of it. Censorship is a violation against freedom of expression and thus stands in contrast to free press and speech, an activity that appears to consolidate in the Ecuadorian media landscape to an increasing extent. It seems that free press and censorship cannot exist parallelly in a society; one excludes the other. It is, nevertheless, not a simple discussion of black and white; the grey area of media regulations and restrictions is large and subjective. The Organic Communications Law comes to light as an instrument for regulation that stands in-between the opposites of the free word and censorship. The intentions, meanings and consequences of the law are interpreted diversely depending on e.g. backgrounds and expectations.

The Republic of Ecuador does not appear to conform to the explanation given by Berger (2013) that press freedom means right to public expression of opinions and access to information of interest to the public, considering the informants' interpretations and experiences of the OCL: they agree that journalists cannot freely express their viewpoints on any matter without fear of reprisals. Berger's standpoint (2013) that communication is always connected right is applicable to the results as it is evident that the production and consumption of communicational means can be regulated so that it interferes with rights.

5.2 Results, Research Questions and Hypothesis

The research questions are answered above in the previous sections in the present chapter in narrative discussions. For clarity I will however state the questions below and summarize the answers immediately after each question. Thereafter the hypothesis will be examined.

1. How has the Organic Communication Law been perceived by professionals in the journalistic field?

Primarily negatively as it is considered to limit rights to freedom of expression, by all interviewees. The overall perception is that the OCL is a mechanism to control media created by the government in order for them to have the sole influence over the public opinion.

2. How does the Organic Communication Law affect freedom of press in Ecuador, according to experts?

Press freedom is affected to a large extent mainly through consequences such as indirect censorship and self-censorship. Media owners' liberty to publish freely is restricted by the OCL principally indirectly, e.g. with threats of sanctions if certain news are deliberately excluded or not reported on extensively.

3. Do media professionals experience that the Organic Communications Law has led to increased self-censorship and cautiousness?

Yes, unquestionably. All informants express that self-censorship has increased since the implementation of the OCL. The reason for this appears to be that journalists and leaders of media outlets fear sanctions from SuperCom usually in the form of economical fines that in turn may lead to serious consequences.

The thesis hypothesis was that the OCL is perceived primarily as an attempt to increase government control over media under the guise of creating a freer and more diverse press. The results conclude that the hypothesis was correct as the informants' answers pointed in this direction in an unambiguous manner.

5.3 Practical Implications

The introduction the Organic Communications Law appears to involve a number of practical consequences to communication professionals in Ecuador. Indirectly the circle of negative effects that involves indirect censorship and self-censorship also affect consumers of information as they will not have access to information that can be classified as free from political influence. The censorship that has begun to function as the norm during the approximate 18 months that has passed since the law went into effect, is likely to become increasingly established across all platforms of communication. The government's mechanisms to extend its control are likely to develop and become more advanced and consequently internet censorship may become stricter. Evidence of such has already been seen during 2014 when officials hired firms to remove You Tube content deemed disadvantageous to the government (Freedom House 2014). Moreover, at the same time as the President claims to guarantee privacy of communications, he tried to pass article 474 of Ecuador's new penal code that would have forced all internet service providers to record all Internet activity for six months. The proposal was finally voted down because of extensive campaigning from civil society organizations throughout 2013 and 2014. By the release of the report 'Freedom on the Net 2014' there had been no reported incidents of blocking or filtering

of websites or blogs in Ecuador, but restraints on political content in general and government critique in particular are not uncommon. Officials have attempted to censor statements in newspapers online versions by demanding editors and website administrators to remove comments of oppositional nature in the commentary fields.

Restraints such as these pose as severe offences on individual's freedoms of expression and opinion and a continued development on the same path can in the long-range have devastating effects on the free flow of information. If independent media are forced to shut down permanently and only state-owned news outlets survive the restrictions, news will be unilateral and targeted to control people's opinions and knowledge. To conclude, the Ecuadorian regime appears to flout democratic standards as it turns towards undemocratic governance by the revisions of national laws.

5.4 Limitations to the Study

Due to limited time spent in Ecuador, I was unable to meet with more informants and have therefore based my results on the interviews conducted with five individuals. Had I dedicated more time of the university semester devoted to execution of the study and writing of the thesis, to search for informants, I could have conducted more interviews and possibly provided more extensive results. However, the extremely time consuming task of finding informants, organizing meetings and travelling to their work places, did not allow me to execute more interviews. I would like to underline that it was not my intention to include only male informants. I see it as a drawback that I was unable to meet with women in the journalistic field. As much as I would have liked to, my contacts did not lead me to female journalists nor were the men I interviewed able to recommend any potential female informants. Would I have the chance to conduct a similar study in the future I would make sure to organize the selection of informants more carefully so that both genders would be represented.

Similarly, it would have been preferable to interview persons with larger differences in political views. Even though it might have been risky to interview a government official, I tried to contact the Secretariat of Communication but I was unable to email them or get through on telephone because I do not hold an Ecuadorian social security number. I would have liked to meet someone who were clearly in favour of the government, but I was unable to find a true *correista* (Correa supporter) and media professional. The results would surely have looked different had that been the case. Also, had the study been larger I would have interviewed consumers of news to see if they had noticed a difference in news reporting over the last few years. As for now I only had informal chats on the topic.

My previous experiences of Latin America and Ecuador helped me in understanding the historical and political context in which the OCL has sprung but it is a fact the long-term living in the country would have facilitated the execution of the study. For any researcher, however, I believe it is difficult to have the “full picture”.

5.5 Suggestions for Future Research

It would be interesting to study the downfall of free media in Ecuador all the way from 2002 when the World Press Forum Index began to rank countries’ freedom of press, until today. With such a comprehensive study, phenomena and developments that concerns freedom of expression and other human rights would most likely unfold gradually and the researcher would gain the advantage of understanding the historical perspective and context to a much larger extent than what is possible in a small-scale study.

Given that the Organic Communication Law is rather recent, there are new events and legal processes occurring in relation to the law in Ecuador constantly. In some years research will be able to draw overall conclusions not yet possible. The law might not stay the same and SuperCom have already suggested to make the law stricter. Topics of study will not be lacking in regards to freedom of expression, communication and government control over media in the coming years. For example, in late 2014 the government tried to make the national assembly approve of a constitutional amendment that would define media as a “public service”, as it is now stated in the OCL but not in the constitution. The approbation could lead to increased state control of the media and further concerns over press freedom are already evident. Therefore scrutiny of the process is necessary and shall the amendment be passed, researchers ought to study the outcome and how journalists and civil society are affected by it.

In order to draw more general conclusions about the political development in Ecuador when it comes to deprivation of citizen liberties and human rights, it would be necessary to investigate the connections between Ecuador’s penal laws, electoral laws and communications laws that have been invented or altered during the presidency of Rafael Correa, e.g. the 2004 Transparency and Access to Public Information Law (Freedom House 2013).

Another topic of interest interrelated to the current subject is Ecuador’s positive stance towards whistleblowers Julian Assange and Edward Snowden. The public support of the two dissidents seems somewhat contradictory to recent developments in Ecuador as the Ecuadorian regime introduces laws and regulations with the possible purpose to suppress criticism of government within their own borders.

6. References

Al Saqaf, Walid (2014). *Breaking Digital Firewalls, Analyzing Internet Censorship and Circumvention in the Arab World*. Örebro: Örebro University Repro

Article 19, (2015). Freedom of Expression [online] Available at <<http://www.article19.org/pages/en/freedom-of-expression.html>> [Accessed 10 February 2015].

Berger, Guy (2013) Mapping Freedom of Expression. In: Carlsson, Ulla (ed.) *Freedom of Expression Revisited*. Gothenburg: Nordicom

Coyer, K., Downmunt T., Fountain, A (2007) *The Alternative Media Handbook*, Chapter 9 *Mainstream or alternative media?* Peschanski, J.A. London: Routledge

Ecuadorian National Assembly, (2013). The Organic Communications Law [online] <http://www.asambleanacional.gob.ec/system/files/ley_organica_comunicacion.pdf> [Accessed 20 April 2015].

Ecuador TV, (2015). Enlace Ciudadano [online] <<http://www.ecuadortv.ec/micrositio.php?c=1314>> [Accessed 23 April 2015].

Freedom House, (2012). Freedom of the Press 2012 [online] <<https://freedomhouse.org/report/freedom-press/2012/ecuador#.VTomAKYflfg>> [Accessed 15 February 2015].

Freedom House, (2013). Freedom of the Press 2013 [online] <<https://freedomhouse.org/report/freedom-press/2013/ecuador#.VToqy6Yflfg>> [Accessed 15 February 2015].

Freedom House, (2014). Freedom of the Press 2014 [online] <<https://freedomhouse.org/report/freedom-press/2014/ecuador#.VToqVKYflfg>> [Accessed 15 February 2015].

Freedom House, (2014) Freedom on the Net 2014 [online] <<https://freedomhouse.org/report/freedom-net/2014/ecuador>> [Accessed 11 May 2015]

Freedom House, (2015). Freedom in the World 2015 [online] <<https://freedomhouse.org/report/freedom-world/freedom-world-2015#.VOL8PVqFKWc>> [Accessed 15 February 2015].

Freedom House, (2015). Discarding Democracy: A Return to the Iron Fist [online] <<https://freedomhouse.org/report/freedom-world-2015/discarding-democracy-return-iron-fist#.VOMAelqFKWc>> [Accessed 15 February 2015]

Fundamedios Expresión de Libertad, (2014). “Ecuador: Censorship Rides on the Back of a Law”. Quito: AEDEP

Hollway, Wendy and Jefferson Tony, (2000). *Doing Qualitative Research Differently – free association, narrative and the interview method*. London: SAGE Publications Ltd

Human Rights Foundation, (2014). HRF Condemns Systematic Restrictions of Press Freedom [online] <<http://humanrightsfoundation.org/news/ecuador-hrf-condemns-systematic-restrictions-on-press-freedom-00401>> [Accessed 5 March 2015]

Jørgensen, Frank Riike (2013) Freedom of Expression in the Internet Era. In: Carlsson, Ulla (ed.) *Freedom of Expression Revisited*. Gothenburg: Nordicom

Lugo-Ocando, J (2008). *The Media in Latin America*. Berkshire: Open University Press

Ministry of National Defense, (2008). Constitución de la República del Ecuador 2008 [online] <http://www.inocar.mil.ec/web/images/lotaip/2015/literal_a/base_legal/A._Constitucion_republica_ecuador_2008constitucion.pdf> [Accessed 20 April 2015].

Montúfar, César (2013). *Las reglas del silencio – Análisis de la Ley Orgánica de Comunicación del Ecuador*. Quito: 13 ediciones (English translation of title: *The Rules of Silence – analyses of the Organic Communications Law in Ecuador*)

Presidency of Ecuador, (2014), Presidencia, República del Ecuador [online] <http://www.presidencia.gob.ec/lapresidencia> [Accessed 5 June 2015]

Reporters without Borders, (2015). World Press Freedom Index 2015: Decline on all Fronts [online] < <http://index.rsf.org#!/presentation> > [Accessed 20 February 2015].

Rønning, Helge (2013). Freedom of Expression is not a Given Right. In: Carlsson, Ulla (ed.) *Freedom of Expression Revisited*. Gothenburg: Nordicom

Secretariat of Communication, (2014) Presidente Correa hizo un balance positivo de la Ley de Comunicación [online] <<http://www.comunicacion.gob.ec/presidente-correa-hizo-un-balance-positivo-de-la-ley-de-comunicacion/>> [Accessed 15 April 2015].

Secretariat of Communication, (2014) Función Ejecutiva expide el reglamento de la Ley de Comunicación [online] <<http://www.comunicacion.gob.ec/funcion-ejecutiva-expide-el-reglamento-de-la-ley-de-comunicacion/>> [Accessed 15 April 2015].

Seidman, Irving (1998). *Interviewing as Qualitative Research*. New York: Teachers College Press.

United Nations, (2015). The Universal Declaration of Human Rights [online] <<http://www.un.org/en/documents/udhr/index.shtml#a19>> [Accessed 23 April 2015]

United Nations, (2011). General Comment No.34 Article 19 of the ICCPR [online] <<http://bangkok.ohchr.org/programme/documents/general-comment-34.aspx>> Accessed on April 15 2015]

Williams, Kevin (2011). *International Journalism, Journalism Studies: Key Texts*. London: SAGE

You Tube, (2011). Enlace Ciudadano 070507 Expulsión de Emilio Palacio [online]

<<https://www.youtube.com/watch?v=aSqbgoP4s7Y>> [Accessed 20 April 2015].

You Tube, (2014). Rafael Correa # hay periódicos que no sirven ni para madurar aguacate (Rompe diario en público) [online] <<https://www.youtube.com/watch?v=sUFyIs6Xfi8>>

Interviewees:

1. Cornejo Menacho, Diego. Interviewed April 1, Quito
2. López Vigil, José Ignacio. Interviewed April 2, Quito
3. Montúfar Mancheno, César. Interviewed, April 1, Quito
4. Perez Barriga, César. Interviewed March 30, Guayaquil
5. Yopez, Diego. Interviewed April 2, Quito

The interview recordings are kept by the author.

7. Appendices

7.1 Structured Interview Questions

Interview Questions for the five experts, subsequently in the original language Spanish.

1. In your opinion, how has the OCL been received by journalists and media professionals?
2. In your opinion, how has the OCL been received by independent media?
3. In your opinion, how has the OCL been received by civil society?
4. What do you think are the government's reasons for implementing the OCL?
5. What do you think are the factors and circumstances that led to the implementation of the OCL?
6. In your opinion, what are the main consequences of the introduction of the OCL?

7. Has the OCL affected freedom of expression and/or other rights?
8. Has the OCL affected censorship and/or self-censorship?
9. Do you know if lawsuits against journalists and media organizations have increased after the introduction of the OCL?
10. What legal cases do you know of that are connected to the OCL?
11. Would you say that there is persecution against journalists and/or media organizations?
12. What do you think the future holds for media workers and organizations?

Preguntas para las cinco personas entrevistadas

1. En su opinión, ¿cómo ha sido la LOC recibida por periodistas y profesionales de los medios de comunicación?
2. En su opinión, ¿cómo ha sido la LOC recibida por los medios independientes ?
3. En su opinión, ¿cómo ha sido la LOC recibida por la sociedad civil?
4. ¿Cuáles cree usted que son las razones del gobierno para la implementación de la LOC?
5. ¿Cuáles cree usted que son los factores y circunstancias que llevaron a la ejecución de la LOC?
6. En su opinión, ¿cuáles son las principales consecuencias de la introducción de la LOC?
7. ¿Ha afectado la LOC la libertad de expresión y /o otros derechos?
8. ¿Ha afectado la LOC la censura y / o auto- censura ?

9. ¿Conoce usted si los pleitos contra periodistas y medios de comunicación han aumentado después de la introducción de la LOC?
10. ¿Qué casos legales conoce usted que están conectados a la LOC?
11. ¿Diría usted que hay persecución contra los periodistas y / o medios de comunicación?
12. ¿Qué piensa usted que depara el futuro para los periodistas y las organizaciones de medios de comunicación?