

Competitive Authoritarianism in Ecuador under Correa

Omar Sanchez-Sibony

Abstract

This essay seeks to categorize Ecuador under the presidency of Rafael Correa as a regime type. The analysis of the slope of the playing field across three crucial arenas of political competition (the legislature, the judiciary, and the mass media) reveals a severely pro-incumbent playing field. Notwithstanding zigzags in the realm of public policy, the Correa government followed an underlying *modus operandi*: the systematic quest for power-accretion via recurrent legal and political reforms—as well as informal practices. Contrary to many characterizations of the regime as a democracy with adjectives, a process-centered evaluation of the relevant playing fields of political competition shows it is best categorized as competitive authoritarian.

Keywords: Competitive authoritarianism, democracy, Ecuador, judiciary, Latin America, legislature, mass media.

Latin America has witnessed the emergence of competitive authoritarianism by way of sustained assaults on democratic governance. By the early 2010s, at least four countries in the region all too often incorrectly referred to as democracies (with adjectives or as diminished forms) were best categorized as competitive authoritarian regimes: Venezuela under Hugo Chavez, Nicaragua under Daniel Ortega, Ecuador under Rafael Correa, and Bolivia under Evo Morales. A fifth, Honduras under Orlando Hernandez's presidency, also has left the family of democracies. Juan Linz was among the first scholars to note that many regimes labeled democratic were better conceived as belonging to the family of authoritarianism.¹ Despite well over a decade of abundant scholarly work on hybrid regimes in the developing world, Latinamericanists as a group may not have heeded Linz's pertinent advice, judging by recurrent observed misclassification. In part, this is because today's soft authoritarian regimes of Latin America "exert an appeal on regional and global opinion

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¹ Juan Jose Linz, *Authoritarian and Totalitarian Regimes* (Boulder, CO: Lynne Rienner, 2000).

to which academics are not immune,” as Kurt Weyland writes.² Moreover, a good many students of Latin America have not internalized the call to be more *precise* about the definition of democracy by including the slope of the political playing field between the government and the opposition. While such a criterion is implicit in standard definitions of democracy, it is one that is all too often overlooked. There are powerful reasons why democracy requires that political competition takes place on a level playing field. An uneven playing field can have a devastating impact on democratic competition. Thus, the imperative to make this criterion explicit in definitions of democracy and to apply it to concrete cases consistently.

This essay provides abundant evidence showing that Correa’s decade in power constituted an unambiguous case of competitive authoritarianism. The assertion that contemporary Ecuador was not a democracy encountered disagreement among a good many Latinamericanists. A few scholars—decidedly a minority—aptly deemed it a competitive authoritarian regime, but no detailed effort has yet been made to document, in theory-informed fashion, why this label is appropriate. Ecuadorean analysts also differ in their categorization of the regime, with labels spanning a wide range of categories: participatory democracy, plebiscitary democracy, *caudillista* democracy, delegative democracy, authoritarian populism, pure authoritarianism, hybrid regime, among others.³ This work refutes the classification of Ecuador as a “participatory democracy,” a “hybrid democratic regime,” or a diminished “democracy with adjectives.” A regime must first fulfill basic credentials as a democracy before it is labeled a democracy with adjectives. The regime Correa constructed does not qualify as a democracy because all the main playing fields of political competition were systematically subverted, thus impeding free and fair elections. Categorizing the Correa regime as a full-fledged autocracy also

² Kurt Weyland, “The Threat from the Populist Left,” *Journal of Democracy* 24, no. 3 (2013): 19.

³ See the following scholarly works: Franklin Ramirez Gallegos, “Perspectivas del Proceso de Democratización en Ecuador” [Perspectives of democratization in Ecuador], in *Que Hay de Nuevo en los Estados Andinos?* [What is new in the Andean States?], ed. Moira Zuazo (La Paz, Mexico: Friedrich Ebert Stiftung, 2012); Osvaldo Hurtado, *Dictaduras del Siglo XXI: El Caso Ecuatoriano* [Twenty-first century dictatorships: The Ecuadorian case] (Quito, Ecuador: Paradiso Editores, 2012); Sebastian Mantilla and Santiago Mejía, eds., *Balace de la Revolución Ciudadana* [Assessment of the Citizens’ Revolution] (Quito, Ecuador: Centro Latinoamericano de Estudios Políticos, 2012); Jose Sánchez-Parga, “La Democracia Caudillista en Ecuador” [Caudillo democracy in Ecuador], *Araucaria: Revista Iberoamericana de Filosofía, Política y Humanidades* [Iberoamerican Journal of Philosophy, Politics and Humanities] 22 (2009): 186-214; Carlos De la Torre, “El Gobierno de Rafael Correa: Posneoliberalismo, Confrontación con los Movimientos Sociales y Democracia Plebiscitaria” [The government of Rafael Correa: Post-neoliberalism, confrontation with social movements and plebiscitarian democracy], *Temas y Debates* [Themes and Debates] 20 (October 2010): 157-172; and Simon Pachano and Sergio García, “Ecuador: un Regimen Híbrido” [Ecuador: A hybrid regime], *Revista Latinoamericana de Política Comparada* [Latin American Journal of Comparative Politics] 10 (July 2015): 87-122.

misclassifies it, because the regime evinced a legal opposition and because democratic institutions operated as more than mere facades. Some contestation of power within the extant institutional framework indeed transpired and could be observed across several political arenas. Santiago Basabe Serrano and Julián Martínez⁴ have rightly characterized Ecuador under Correa as a competitive authoritarian regime, but their work does not aim to justify this regime classification. This task is precisely the one endeavored in the present essay.

The accurate classification of regimes is of evident significance for the enterprise of comparative politics, in which analytical precision is of the essence. Causal arguments and conclusions emanating from academic works which are premised on misclassified regimes inevitably will be biased. Indeed, a good part of the literature in two prominent fields of inquiry of recent years—one assessing the quality of democracy in Latin America in the twenty-first century and another pertaining to the implications of the “rise of the Left”—has been marred by misclassifying units of analysis (regime types), insofar as it conflates democratic and nondemocratic regimes as part of the same democratic family.⁵ Secondly, pervasive misclassification of regimes precludes new, important, research agendas from emerging—avenues of inquiry that stand out for attention once regimes are categorized appropriately.

Under Correa, Ecuador witnessed far-reaching institutional engineering, self-serving law-making, extensive state capture, and regular governmental repressive behavior, all of which tilted the slope of the playing field across the relevant arenas of competition in a pro-incumbent direction. What characterized the Correa era, stripped of official rhetoric, was the successful deployment of political agency to enhance the chief executive’s political and institutional powers and to reduce spaces for political contestation.

⁴ Santiago Basabe-Serrano and Julián Martínez, “Ecuador: Cada Vez Menos Democracia, Cada Vez Más Autoritarismo...con Elecciones” [Increasingly less democracy, increasingly more authoritarianism...with elections], *Revista de Ciencia Política* [Journal of Political Science] (Santiago) 34, no. 1 (2014): 145-170.

⁵ Prominent examples of misclassification include the edited volumes by Levine and Molina on the quality of democracy. See Daniel Levine and José Enrique Molina, eds., *The Quality of Democracy in Latin America* (Boulder, CO: Lynne Rienner, 2011). Another example is the Weyland, Madrid, and Hunter volume on the differences between the moderate and the contestatory Left. While the authors rightly underscore the exacerbation of majoritarianism and the “undermining of checks and balances” in countries such as Venezuela, Bolivia, and Ecuador, or Nicaragua, the volume deems these polities to be democracies with adjectives—falling short of a complete regime-level diagnosis that premises democracy on a level playing field. See Kurt Weyland, Kurt, Raúl L. Madrid, and Wendy Hunter, eds., *Leftist Governments in Latin America: Successes and Shortcomings* (New York: Cambridge University Press, 2010).

Defining and Operationalizing Competitive Authoritarianism

Regimes cannot be considered democratic under which violations of open, free, and fair elections and of civil liberties and political rights are broad and systematic enough to seriously impede democratic challenges to incumbent governments. These practices create an uneven playing field between the government and the opposition, a *sine qua non* of democratic political competition. Such regimes are best conceptualized as competitive authoritarian.⁶ While delegative democracies are characterized by powerful plebiscitarian executives not held to account by horizontal institutions but still held in check via reasonably free and fair elections, competitive authoritarian regimes *also* compromise vertical accountability, because elections are not free and fair. The ruling party enjoys a decisive advantage at election time due to unequal access to financial resources, mass media, the law, and the state apparatus writ large. The incumbent's manifold informal maneuverings, crafting of resource advantages, and self-serving institutional changes can create incumbent "hyper-advantage" (rather than mere incumbent advantage typical of democracies), which renders politico-electoral competition fundamentally unfair. Thus, the opposition's ability to compete is seriously compromised.⁷ What distinguishes these hybrid regimes from full-fledged authoritarianism is that they evince a legal political opposition, and incumbents submit to elections which are competitive. Some critics of the concept of competitive authoritarianism have argued that many regimes for which such a label is issued have been misclassified and are better understood as diminished subtypes of democracy.⁸ However, many of these critiques rest on an outcome-based conceptualization of democracy, defined as an institutionalized system of alternation in power—following Adam Przeworki's famous definition whereby democracy is a system in which parties lose elections. There are powerful theoretical and empirical reasons to favor a process-based approach over an outcome-based approach for purposes of regime classification.⁹ Ignoring the slope of the playing field across relevant political arenas¹⁰ is tantamount to dismissing the importance of the fairness and freedom of political competition in judging whether elections

⁶ Steven Levitsky and Lucan Way, *Competitive Authoritarianism: Hybrid Regimes after the Cold War* (Cambridge, UK: Cambridge University Press, 2010).

⁷ Andreas Schedler, *Electoral Authoritarianism: The Dynamics of Unfree Competition* (Boulder, CO: Lynne Rienner, 2006).

⁸ One of the most detailed such critiques can be found in: Maxwell Cameron, "Making Sense of Competitive Authoritarianism: Lessons from the Andes," *Latin American Politics and Society* 60, no. 2 (2018): 1-22.

⁹ An elaboration of why a procedural approach is more adequate for regime classification can be found here: Omar Sanchez-Sibony, "Classifying Ecuador's Regime under Correa: A Procedural Approach," *Journal of Politics in Latin America* 13, no. 3 (2017): 122-140.

¹⁰ Steven Levitsky and Lucan A. Way, "Why Democracy Needs a Level Playing Field," *Journal of Democracy* 21, no. 1 (2010): 57-68.

are democratic. The foremost virtue of competitive authoritarianism as a conceptual innovation is precisely that it focuses on the process underlying political competition—the nature of the playing fields in which government-opposition dynamics unfold—not on observed outcomes, such as turnover in power or lack thereof.

This work operationalizes practices that render a polity competitive authoritarian as:

1. Routine abuses of state resources, state institutions, and the legal framework, and
2. Political and legal reforms that fundamentally alter the slope of the relevant playing fields of political competition.

Under the first rubric, we can include the capture of electoral bodies; the use of state employees and state finance for partisan ends; capture of the high courts; repeated violations of norms, legal codes, and the constitution; and recurrent use of discriminatory legalism. Under the second rubric, we can include constitutional changes that compromise the separation of powers; brazenly pro-incumbent electoral reforms; laws that severely limit freedom of the press and of speech; and the criminalization of protest, among other nondemocratic acts.¹¹ To reach a verdict about the nature of a regime, each of these practices and rule changes needs to be evaluated not simply on its own, but in conjunction and in interaction with one another—which compounds its individual effect.

A Biased Electoral Arena

Elections in Ecuador during the *Correato* period (2006–2016) were unfair due to a multitude of features, but particularly two: first, electoral reforms unilaterally drafted by the ruling party to blatantly augment its share of seats for a given share of votes, alongside others (pertaining to financing, and so on) that slanted the electoral playing field; second, the political capture of the electoral management body, so that it ceased to be a credible referee of elections and became a weapon in the hands of the Executive branch. The ruling party achieved both institutional conquests via the enactment of the 2009 *Código de la Democracia* (Democracy Code). More electoral self-dealing occurred in 2012, as Alianza PAIS (AP) changed the electoral law from the Hare quota to the majoritarian d'Hondt method, thus enhancing its parliamentary dominance

¹¹ Andreas Schedler, "Elections without Democracy: The Menu of Manipulation," *Journal of Democracy* 13, no. 2 (2002): 36-50.

without the need to improve its vote totals. I have elsewhere offered a more detailed account that explains how and why elections became unfair under Correa's administration.¹²

An Emasculated Legislature

In retrospect, the cornerstone of Correa's power-grabbing strategy was the bold but calculated move not to field candidates for the 2006 legislative elections, while betting all his political chips on the call for an Ecuadorian Constituent Assembly. The Executive-orchestrated unconstitutional ouster of fifty-seven members of the National Congress, who opposed a popular referendum for a Constituent Assembly, constitutes the original autocratic sin of the Citizens' Revolution, the death knell of Ecuador's precarious democracy. The government clandestinely gathered and co-opted (with assurances of future rewards and possibly with payments) the fifty-seven substitute lawmakers.¹³ In one sweeping illegal action, the chief executive was able to change the composition of the opposition-dominated Congress without the need for new parliamentary elections. This institutional *coup* was carried out with the help of a pliant Electoral Tribunal (the institution that ousted the opposition lawmakers), and the use of praetorian tactics (pro-Correa mobs that surrounded parliament, stormed the Supreme Court, and harassed opposition legislators) aimed at intimidating the relevant veto institutions into yielding to presidential political designs.¹⁴ The prevailing public opinion *zeitgeist*—abhorrence toward the traditional parties and the extant political system—put enormous public pressure on the relevant state institutions to bow to Correa's ambitions and helped buy the acquiescence of the *poderes facticos* (the military, the business class) which historically had wielded veto power in Ecuador. This irregular co-optation of the national legislature was essential in paving the road for Correa's subsequent capture of relevant democratic institutions.

The 2008 Montecristi Constitution enhanced the constitutional powers of the Executive branch vis-à-vis the Legislative branch. It was both hyper-presidentialist and antiliberal in conception.¹⁵ It also divested the legislative

¹² Sanchez-Sibony, "Classifying Ecuador's Regime under Correa."

¹³ Fabricio Correa, the president's brother, would sometime later confess that he had organized the secretive meeting with the substitute lawmakers, in which the accountant of the ruling PAIS party offered to fulfill lawmakers' spending requests with funds from the public treasury. See "Revelaciones de Fabricio Correa Revelan Pagos a Diputados 'de los Manteles'" [Confessions of Fabricio Correa reveal payments to lawmakers], *El Universo* [The Universe], June 22, 2009.

¹⁴ Leonardo Duarte, "Como Correa Destruyo al Congreso" [How Correa destroyed Congress], ABC (Paraguay) July 12, 2011.

¹⁵ An analysis of the constitution's content can be found in Pablo Andrade, "El Reino Imaginario: Los Intelectuales Políticos Ecuatorianos en la Construcción de la Constitución de 2008" [The imaginary kingdom: Ecuadorean intellectuals in the construction of the 2008 constitution], *Ecuador Debate* 85 (2012): 39-48.

branch of some of its most important constitutional prerogatives. Chief among these was the privilege to appoint the top personnel of important check-and-balance institutions, including the office of the attorney general, the comptroller general, the human rights ombudsman, superintendents, and, most crucially, the National Electoral Council and the Board of Judicature.¹⁶ This all-important prerogative of appointment was transferred to the newly created *Consejo de Participación Ciudadana y Control Social* (CPCCS), or Council of Citizen Participation, avowedly with the purpose to endow the aforementioned entities with political independence. In practice, the lack of transparency in the very procedures stipulated to select the members of the CPCCS enabled the ruling party to co-opt it by choosing AP loyalists.¹⁷ This paved the road for the government to capture check-and-balance institutions whose upper echelons the CPCCS was tasked to appoint.

During the 2009–2013 legislative term, the ruling party, with 54 of 128 seats, counted a near-absolute majority that required the assistance of only a few opposition lawmakers to exceed the threshold needed to pass legislation. The practices Alianza PAIS used to co-opt these legislators were indistinguishable from those prevailing during the epoch of the so-called *partidocracia* that Correa disparaged: prebendalism and clientelism.¹⁸ Assorted provincial-organization legislators became legislative allies of the ruling party in exchange for public resources channeled to their constituencies, while the government prodded the PRE (*Partido Rodolista Ecuatoriano*, or Ecuadorean Rodolista Party) and the PRIAN (*Partido Renovador Institucional Acción Nacional*, or Institutional Renewal Party of National Action) to support selected legislative initiatives with a calibrated mix of threats and favors.¹⁹ The government had little trouble in wielding its financial resources and political weapons (its control over the justice system and the national tax agency) at its disposal to ensure *variable* but reliable National Assembly majorities to support its legislative initiatives during the 2009–2013 term. The virtual disappearance of the traditional parties rendered the new legislature more amenable to co-optation—populated

¹⁶ Flavia Freidenberg and Simon Pachano, *El Sistema Político Ecuatoriano* [The Ecuadorean political system] (Quito, Ecuador: FLACSO Ecuador, 2016), 89.

¹⁷ The rules governing the selection process did not bar candidates with political affiliations or hailing from (AP-dominated) public institutions. Four of the seven members selected to integrate the CPCCS, including its president, had clear links to the ruling Alianza PAIS. See “CPPS en Mandos de PAIS” [CPPS in the hands of PAIS party], *La Hora* [The Time], April 15, 2010.

¹⁸ Santiago Basabe-Serrano, “Reforma Constitucional, Nuevos Actores Políticos y Viejas Prácticas Partidistas” [Constitutional reform, new political actors, and old partisan practices], *Revista de Ciencia Política* (Santiago) 29, no. 2 (2009): 381–406.

¹⁹ For instance, PRE’s leader, Dalo Bucaram, was alternatively warned of the possibility of the resumption of criminal judicial proceedings against his father, Abdala Buracaram, and enticed with the prospect of a green light for the return of his father to Ecuador. Similarly, PRIAN’s Alvaro Noboa was threatened with investigations by the tax agency for presumed tax evasion; in return for his parliamentary support for the ruling party, he enjoyed an effective amnesty.

as it was by weakened taxi parties (instrumental and transactional, only; for example, for hire for a ride to the presidential palace, then vacated, later to be used again as a vehicle for someone else) and assorted movements more ductile and malleable than the parties of old. Most of the important approved bills in the unicameral parliament were those that emanated from the Executive, while those introduced by legislators (even AP initiatives) found an exceedingly low rate of success.²⁰ For illustration, among the 119 bills presented by the Assembly in 2012, only one was approved, while four of the six bills emanating from the Executive were approved.²¹ The Executive branch also rendered the legislature superfluous via the use and abuse of presidential decrees. The number of Executive decrees pertaining to important state-level policies (*politicas de estado*) were very high, in effect supplanting the role of the legislature: 178 decrees in 2007; 245 in 2008; 228 in 2009; 186 in 2010; 138 in 2011; and 124 in 2012.²² The Assembly became practically unable to legislate in autonomous fashion. Drafted bills that lacked the acquiescence of the President of the Republic were not even processed. Moreover, the Montecristi Constitution (article 138) endowed the Executive with the prerogative to wield a total or partial veto on legislation approved by the Assembly, as well as the power to modify approved legislation. While the 2008 constitution grants the Executive the role of co-legislator, the relationship between the branches became very imbalanced. President Correa followed a set script: to disassociate himself from accords forged in the legislature by his party caucus in order to enjoy the freedom to impose—via partial or total vetoes—his own viewpoint on finished pieces of legislation. Ruling party legislators were, at that point, often pressured publicly to redraft their original bill. This informal but repeated practice further emptied the legislature of political relevance. Many debates and deliberations within the National Assembly, including those within the AP caucus, became inconsequential formalities, for they did not map into legislative output. The operational dynamics of the new legislature “rendered political opposition symbolic and rhetorical.”²³ AP’s status as a taxi party, and

²⁰ Simón Pachano, “Ecuador: El Nuevo Sistema Político en Funcionamiento” [Ecuador: The new political system at work], *Revista de Ciencia Política* (Santiago) 30, no. 2 (2010): 297-317.

²¹ John Polga-Hecimovich, “Ecuador: Estabilidad institucional y la Consolidación de Poder de Rafael Correa” [Ecuador: Institutional instability and the consolidation of power by Rafael Correa], *Revista de Ciencia Política* (Santiago) 33, no. 1 (2013): 150.

²² Decretos del Sistema de Gestion para la Gobernabilidad [Management system for governability decrees], http://www.sigob.org/sigob/pag_servicios/documentos/RLA%20docs%20institucionales/Institucional%201%20-%20SIGOB%20ESQUEMA%20BASE%20ESPANOL.pdf (accessed September 23, 2016).

²³ Jose Leon Trujillo, “Correa: Dinamica de Concentracion de Poder y Modernizacion Conservadora” [Correa: Dynamics of power concentration and conservative modernization], in *Balance de la Revolución Ciudadana* [Assessment of the Citizens’ Revolution], ed. Sebastian Mantilla and Santiago Mejía (Quito, Ecuador: Centro Latinoamericano de Estudios Políticos, 2012).

the (deliberate) absence of party-building following its hasty creation, pre-empted the development of countervailing forces to limit the personalization of legislative power by Rafael Correa.

Whenever Executive-led legislative bills languished because of the recalcitrance of Alianza PAIS representatives, President Correa repeatedly threatened to use the *muerte cruzada* (“mutual death”) provision to bully his party caucus into submission, that is, as a form of blackmail. The *muerte cruzada*, enshrined in the Montecristi Constitution, enhances the powers of the Executive by granting it the prerogative to dissolve both the legislature and the Executive and force new elections.²⁴ While this “quasi-parliamentary” rule can be conceived as a way to align the incentive structure of the Executive and the Legislative branches of government so as to turn the page on Ecuador’s history of “interrupted presidencies,”²⁵ Correa found a way to parlay his popularity into the threatened misapplication of the *muerte cruzada* provision with the aim to quell dissent. Occasionally, the ruling party caucus engaged in actions that defied or contravened the wishes of President Correa. Such acts of legislative independence included the postponement of the Law of Tertiary Education, changes to the *Ley de Servicio Publico*, and obstruction of the nomination of Fernando Cordero (a Correa acolyte) as president of the National Assembly. In every one of these cases, President Correa resorted to the blackmail tactic of threatening to issue the *muerte cruzada*, coupled with harsh admonitions and condemnatory language directed at nonconforming ruling party lawmakers. In general, however, AP lawmakers had strong electoral incentives to toe the president’s line. Such a subservient strategy was the surest route to reelection, given that popularity was vested in the person of the President of the Republic, and all AP lawmakers benefited from his coattails. (Alianza PAIS as an institution was bereft of durable linkages vis-à-vis voters). Those AP legislators who became disenchanted with the absence of internal democracy within Correísmo, defected from it, and fielded candidacies under alternative party formations were unable to achieve reelection to office²⁶ (such was the fate of legislators Maria Paula Romo, Betty Amores, and Fernando Gonzalez). The futures of these politicians made clear that political life outside the shadow of Correísmo was nasty, brutish, and short.

²⁴ However, the provision contains an important asymmetrical feature, which allows the president to stay in office until the new elections, while the legislature is immediately dissolved. This creates an interim period characterized by a vacuum of power from which the Executive branch can benefit for its own purposes.

²⁵ James Bowen, “Rethinking Democratic Governance: State-Building, Autonomy and Accountability in Correa’s Ecuador,” *Journal of Politics in Latin America* 7, no. 1 (2015): 204-205.

²⁶ Basabe-Serrano and Martinez, “Ecuador: Cada Vez Menos Democracia, Cada Vez Más Autoritarismo... Con Elecciones” [Ecuador: Less democracy and more authoritarianism... with elections].

The absolute majority the ruling AP obtained in the 2013 legislative elections further accentuated the status of the legislature as an appendix of the Executive. Executive-led reforms in the electoral law contributed to the lopsided share of seats the ruling party accrued—100 of 136—which helped it to control all the legislative commissions in the National Assembly. The ruling party no longer needed to rely on the “subterranean negotiations and clientelistic arrangements with other parties” to which it sometimes had resorted during the 2009–2013 legislative term.²⁷ Its overwhelming majority in the chamber allowed Correísmo to brush aside opposition lawmakers. Only latent factionalism within Correísmo potentially could have blunted the president’s agenda. But the Executive enforced strong party discipline among AP lawmakers, punishing those who veered away from the party line.²⁸ The crushing dominance of the ruling party in the legislative branch paved the way for unilateral legislation, much of it aimed at slanting the playing field in several arenas of competition even further. The concerns, demands, or input of opposition parties were systematically sidelined and ignored. Opposition in the legislature became symbolic and unable to delay, modify, or veto legislative initiatives that entrenched ruling party hyper-advantage across playing fields, and by extension, entrenched the competitive authoritarian character of the regime. Consequently, contestation of power shifted increasingly away from institutions—impotent in their ability to check the power of the Executive—and moved to the streets and to social media.²⁹

Among the important pieces of legislation stemming from the AP’s parliamentary hegemony was the enactment in 2015 of a constitutional amendment to allow the indefinite reelection of all public officials, part of a growing trend concerning the manipulation of term limits that has been observed among Latin America’s more authoritarian regimes.³⁰ The Constitutional Court gave the green light to this controversial piece of legislation, a crucial high court that by 2014 was firmly controlled by Correísmo. While in the past such constitutional changes had been submitted to a referendum, Correa now argued that parliamentary passage of the measure sufficed—cognizant as he was that after eight years in power and a declining economy he now faced adverse public opinion winds. The ruling AP made an addendum to the reelection law so that

²⁷ Ibid.

²⁸ Sofía Vera Rojas and Santiago Llanos Escobar, “Ecuador: La Democracia Después de Nueve Años de Revolución Ciudadana de Rafael Correa” [Ecuador: Democracy after nine years of the Citizens’ Revolution of Rafael Correa], *Revista de Ciencia Política* (Santiago) 36, no. 1 (2016): 145-175.

²⁹ Pablo Ospina Peralta, “Por que Protestan en Ecuador? Rafael Correa y el Fracasado Aumento del Impuesto a las Herencias” [Why do they protest in Ecuador? Correa and the failed increase in the inheritance tax], *Nueva Sociedad* [New Society] 258 (2012): 121-230.

³⁰ Javier Corrales and Michael Penfold, “Manipulating Term Limits in Latin America,” *Journal of Democracy* 25, no. 4 (2014): 157-168.

the change did not apply to the February 2017 general election; it applied only from May 2017 forward. This meant Rafael Correa could run in the 2021 presidential election. This addendum intended to blunt the perception of self-dealing, that is, the notion that the reform aimed to benefit the incumbent. In any case, the institutional power amassed by Correísmo over a decade was large enough that there were several political options available to the ruling party to permit Correa to return to the presidential *Palacio Carondelet* earlier. Among such instruments was the Executive's prerogative to invoke, if it so wished, the *muerte cruzada* provision that dissolved the legislature and convened new elections for both branches of government.³¹ The real reason why Correa decided not to run in 2017 is still a subject of debate, but declining public approval ratings amid a worsening economic outlook presumably factored into his decision to name a successor (2017–2021), Lenin Moreno.

Mass Media Arena: Besieged by Concerted Repression

Unequal access to the media by contending political parties constitutes a prominent trait of competitive authoritarian regimes. The methods employed by incumbents in these regimes to skew the media playing field are multifaceted, including judicial, financial, and legislative tools. Ecuador moved unambiguously toward a pro-incumbent mass-media playing field via three developments: governmental repression of freedom of the press and freedom of speech (by way of praetorian methods and the enactment of new legislation to regulate the media sector); the creation of a media empire at the service of the government; and the incessant use and abuse of a ubiquitous presidential bully pulpit (via a presidential weekly show and repeated compulsory broadcasts).

Government Repression of Mass Media

A number of Ecuadorean presidents in the post-1979 period have displayed intolerance toward the mass media. But the Correa era constituted a marked qualitative change. Carlos Vera, a reputable Ecuadorean investigative journalist with over three decades of experience in the profession, explained the distinction between the Correa government and previous ones as follows:

In the past, from General Rodríguez Lara to Osvaldo Hurtado—the most tolerant with the press...governments of all hues invariably pressured the owners of the mass media in order to obtain favourable coverage or to expel inconvenient journalists. When phone calls did not work—Correa also made recourse to this tactic at first—they opted to resort to threats,

³¹ Catherine Conaghan, "Ecuador under Correa," *Journal of Democracy* 27, no. 3 (2016): 109-118.

public condemnations, inspections of media facilities, cuts to electricity, restrictions on imported paper, delays in the granting of permits, the stealing of documentation, insults, and [occasionally] the closing of a station, as President Borja did with *Radio Sucre*. These were, however, isolated actions, targeted against particular businessmen, TV/radio programs, or communicators. Today [under Correa] we face a concerted system of hostility and slander [toward the media], followed by a process of formal accusations and court trials. [In parallel], we have witnessed the imposition of a legal scheme that seeks to redefine free speech and [the practice of] journalism so as to fit the model crafted...by one political party, or more precisely, one leader (author's translation).³²

While selected radio broadcasters and print journalists were the subject of attacks by previous Ecuadorean presidents³³—notably Febres Cordero, Abdala Bucaram, and Lucio Guiterrez—no previous administration pursued a comparable all-encompassing effort to undermine the freedoms of the press and of speech. Predecessor governments did not match the formidable array of legal, financial, tax, and judicial resources at the disposal of Correa's government, enabling the latter to engineer a coordinated attack on media organizations.

Freedom of expression in Ecuador was restricted by legislation that thoroughly regulated the mass media to stifle its voice. The centerpiece of these efforts was the *Ley de Comunicaciones* (Communications Law), finally approved by the National Assembly in June 2013. It grants a government-controlled Council of Communications the task of regulating the content of mass media writ large, and holds journalists, directors, and media owners legally accountable for what they publish, granting the Council the power to penalize them.³⁴ This significantly augmented the discretion and power of the Executive to levy prosecutorial actions against television, radio, and print outlets via the simple arbitrary application of the new law. The Communications Law refers to the right to freedom of expression as “the search, reception, exchange, production and dissemination of truthful, verified, opportune, contextualized and plural information,”³⁵ opening the

³² Carlos Vera, *Nunca Mordaza! Gobiernos, TV, Empresarios* [Never a muzzle! Governments, TV, entrepreneurs] (Quito, Ecuador: Paradiso Editores, 2009), 6.

³³ William Barndt, “Executive Assaults and the Social Foundations of Democracy in Ecuador,” *Latin American Politics and Society* 52, no. 1 (2010): 121-154.

³⁴ Lindsay Green-Barber, “Ecuador’s Proposed Communications Law,” blog *Americas Quarterly* (November 18, 2010), www.americasquarterly.org/node/2002 (accessed May 20, 2017).

³⁵ Quoted in Human Rights Watch, “Human Rights Report 2013: Ecuador” (2013), p. 3, <http://www.hrw.org/world-report/2013/country-chapters/ecuador> (accessed April 14, 2017).

door to prior censorship, as Human Rights Watch warned. Prior censorship contravened Principle 7 of the Declaration of Principles of Freedom of Expression, endorsed by the Inter-American Commission on Human Rights, which states that the “prior conditioning of expressions...is incompatible with the right to freedom of expression.”³⁶ The law prohibited what it called “media lynching,” defined as the publication of material intended to reduce someone’s credibility or prestige. It set restrictions on the coverage of court cases and banned the publication of personal communications, including emails and conversations. In addition, the *Ley de Comunicaciones* eased previous causal requirements for the broadcasting of *national cadenas* (the obligatory joint broadcasting of presidential allocutions) and government publicity, further augmenting the government’s legal discretion for their use and abuse. Judging the effect of the Communications Law three years after its promulgation, Jose Manuel Vivanco (head of Human Rights Watch for Latin America) reached a predictable conclusion: the law “had been used to asphyxiate independent mass media.”³⁷ The organ tasked with implementing the Communications Law, the Supercom, fined several mass media outlets for the transgression of “delegitimizing governmental actions” when revealing corruption scandals, as well as for engaging in “social agitation.” Newspapers and TV outlets also were subjected to investigations for events they did not cover, and many were fined for not publishing rectifications of their content along the lines mandated by the Supercom.

Another tactic Correa’s government employed in its quest to dominate the airwaves was one typical of competitive authoritarian regimes: formulating legal reforms that paved the way for the co-optation of independent mass-media outlets. A clause introduced in the 2008 Montecristi Constitution (article 312) obliged banks to divest themselves of media organizations they owned. As of 2009, 118 bankers linked to 209 mass-media outlets were affected by this law, with which there was to be full compliance no later than by October 2010.³⁸ This led, most prominently, to the selling of the independent TV station *Teleamazonas*, in a process riddled with irregularities.

Correa’s government crafted a media-based presidency, undergirded by a sophisticated and relentless advertising campaign. This coordinated marketing operation was orchestrated by the prominent Alvarado brothers. Vinicio and Fernando Alvarado are political marketing experts with an ample resume in guiding political campaigns (they helped Abdala Bucaram’s election efforts). These two experienced operators led “the costliest and most sustained publicity campaign that Ecuador has ever seen.”³⁹ The ubiquitous nature of televised

³⁶ Ibid.

³⁷ “Correa Asfixia a la Prensa” [Correa muzzles the press], *La Nacion* [The Nation], July 12, 2016.

³⁸ “Ecuador: Banqueros Forzados a Vender Acciones en Medios de Comunicacion” [Bankers are forced to sell stocks of mass media outlets], *BBC Mundo*, October 22, 2010.

³⁹ “País Correa vs. Los Candados” [Belt country versus the shackles], *Vistazo* [Sight], March 13, 2013, 3.

and radio propaganda singing the praises of the Citizens' Revolution alongside the incessant rhetorical efforts of public officials amounted to a "permanent campaign," as two scholars aptly called it.⁴⁰ It is a testament to the centrality of the communications strategy for the regime's survival that the Alvarado brothers remained at the core of the presidential inner circle amid an otherwise high level of ministerial turnover. The government ran a concerted paid advertising campaign against the press, labeling it "corrupt and delinquent," among other epithets. The Inter-American Commission on Human Rights' special rapporteur for freedom of expression noted in Ecuador "a rising climate of polarization in which attacks on and threats against journalists and media outlets of all editorial positions have increased."⁴¹ In December 2010, police units raided the prominent magazine *La Vanguardia*, confiscating computers and other materiel. *Teleamazonas*, among others, reported the filing of between two and five lawsuits against the station each month.⁴² The government had this station temporarily shut down in August 2009, after it aired a video that showed President Correa discussing changes made to the constitution after it had been approved.⁴³ There was another tool the government deployed to entice media organizations to practice self-censorship: its financial prowess. The government became by far the largest source of advertising revenue,⁴⁴ deployed selectively to starve critical media of resources. For mass media outlets with less financial clout, particularly newspapers, the selective and strategic removal of state publicity was enough to incentivize a change in the editorial content of many of them, sacrificing their journalistic independence to avert bankruptcy.

Perhaps the most aggressive manifestation of the repression of mass media was the closure of several TV and radio stations. In the first half of 2011 alone, at least twenty such media outlets were closed on legal and technical grounds.⁴⁵ These were outlets (including *Radio Cosmopolita*, *Radio Morena*, and the TV channel *Telesanga*) that were independent or anti-incumbent in their coverage. By 2013, Freedom House demoted Ecuador to the category

⁴⁰ See Catherine Conaghan and Carlos de la Torre, "The Permanent Campaign of Rafael Correa: Making Ecuador's Plebiscitary Presidency," *International Journal of Press/Policies* 13 (2008): 267-284.

⁴¹ Annual Report of the Inter-American Commission on Human Rights (2009), <http://www.cidh.org/annualrep/2009eng/TOC.htm> (accessed June 18, 2016).

⁴² *Ibid.*

⁴³ CPJ (Committee for the Protection of Journalists), "Attacks on the Press in 2008: Ecuador" (February 10, 2009), www.cpj.org/2009/02/attacks-on-the-press-in-2008-ecuador.php (accessed March 15, 2016).

⁴⁴ Cesar Montufar, "Rafael Correa and His Plebiscitary Citizens' Revolution," in *Latin American Populism in the Twenty-First Century*, ed. Carlos de la Torre and Cynthia Arnson (Baltimore, MD: Johns Hopkins University Press, 2013).

⁴⁵ "Correa pone a la Prensa contra la Pared" [Correa attacks the printed mass media], *El Pais* [The Country], July 11, 2011.

of “not free” regarding press freedom, noting that over the past five years Ecuador had witnessed the “second greatest descent in press freedom in the world.”⁴⁶ A climate of governmental intimidation and a legal framework inimical to freedom of expression and freedom of the press continued unabated during Correa’s decade in power. During the last year of Correa’s government, Ecuador “remained a hostile environment for freedom of expression.”⁴⁷

Creation of a Governmental Media Empire

When Correa became president, the state possessed only one significant mass media outlet. It was *Radio Nacional*. Six years into the Citizens’ Revolution, the government had built an emporium consisting of sixteen outlets—including TV stations, newspapers, radio frequencies, and magazines (see table 1). These included the printed newspaper *El Telegrafo*, the digital website *El Ciudadano*, the cable television outlet *Cablevision*, the TV outlets *TC Television* and *Gama Vision*, and others. These last two television outlets were expropriated from the Isaiah brothers, two prominent bankers. Presented by government officials as public media, they were unmistakably revealed to be part of the government’s propaganda machinery. No previous Ecuadorean government had enjoyed the benefits of wielding a comparable media empire. As early as 2008, *La Vanguardia* magazine estimated that “the government controls channels accounting for 40 percent of the overall TV audience.”⁴⁸

Table 1. Mass Media under Government Control

Seized Outlets	Created Outlets
El Telégrafo	Ecuador TV
Gamavision	Radio Publica
TC Televisión	El Ciudadano (print and online)
Cable Noticias	Agencia Ecuatoriana de Noticias (ANDES)
Cable Deportes	
Magazines of La Otra (3 print media)	
Radio Universal	

⁴⁶ Freedom House, “Ecuador y Paraguay Clasificados como ‘No Libres’ en el Estudio de Libertad de Prensa en 2013” [Ecuador and Paraguay are ranked as unfree in a study of freedom of the press in 2013] (Washington, DC: Freedom House, 2013).

⁴⁷ Freedom House, “Freedom in the World 2017—Largest 10-Year Score Declines” (2017), <https://freedomhouse.org/report/freedom-world/freedom-world-2017> (accessed December 2, 2017).

⁴⁸ “Alianza Pais Controla Medios” [PAIS Party controls the mass media], *La Vanguardia* [Vanguard]146, July 15-22, 2008.

A Ubiquitous Presidential Bully Pulpit

Correa's administration ranked as a leader in Latin America in a particular form of television propaganda: the regular use of *cadena nacionales*, or the mandatory interruptions on all channels to show government broadcasts. According to Fundacion Ethos, from the time Rafael Correa came to office in January 2007 until May 2011, a staggering 1,025 *cadena nacionales* were broadcast—equivalent to 9,024 minutes or 151 hours. For illustration, this compared with about eleven such mandatory broadcasts by Argentina's Cristina Fernandez in the first eight months of her second term, sixteen *cadena*s by Colombia's Juan Manuel Santos in his first two years in office, and seven *cadena*s by Brazil's Dilma Rouseff in her first eighteen months as president.⁴⁹ The frequency of broadcasts in Ecuador was rivaled only by that observed in Venezuela under Hugo Chávez. Ecuadorean legislation established that the *cadena nacionales* could be used only for “the conveying of information by public institutions or ministries, can only be requested at a rate no greater than once a month, and are not to exceed ten minutes.”⁵⁰ The Correa administration blatantly exceeded such legal limits. The content of the broadcasts surpassed the strictly informative; they were laden with political proselytizing, intent on fomenting the government's narrative and discrediting critics in all realms of public life.⁵¹ The ubiquitous forcible interruptions of TV programming to give way to *cadena nacionales* was justified by government officials as an attempt to correct the “repeated and orchestrated lies” by certain mass media outlets.⁵²

A second way the Correa government actively shaped the political socialization of Ecuadoreans was via the presidential Saturday program, *Enlaces Ciudadanos* (otherwise known as *sabatinas*), airing concurrently on two TV channels and no less than forty radio stations. After six years in office, about 318 such *Enlaces* had been broadcast, recorded in localities throughout the national territory, with a duration of between two and three hours. A study of the *Enlaces* that aired throughout 2009 revealed that no fewer than two thousand minutes had been devoted to demonizing the

⁴⁹ “Chávez, Correa y Fernández, Líderes en el Uso de la Propaganda Televisiva” [Chavez, Correa and Fernandez are leaders in the use of TV propaganda], *El Pais*, July 22, 2012.

⁵⁰ Quoted in Fundacion Ethos, “Cadenas del Gobierno suman 151 Horas al Aire” [Mandatory broadcasts add up to 151 hours] (May 23, 2011), www.ethos.org.mx (accessed May 11, 2016).

⁵¹ For a description of the substantive content of such broadcasts, see Carlos De la Torre, “Rafael Correa, un Populista del Siglo XXI” [Correa: A populist of the 21st century], in *Balance de la Revolución Ciudadana* [Assessment of the Citizens' Revolution], ed. Sebastián Mantilla and Santiago Mejía (Quito, Ecuador: Centro Latinoamericano de Estudios Políticos, 2012).

⁵² Secretary of Communications Fernando Alvarado denied that the use of *cadena nacionales* are tools of propaganda and averred that they are used only to correct “misinformation that damages the country... in order to clarify.” In a more honest statement, Alvarado affirms that in these broadcasts “we put forth our version of the truth and the private media puts forth theirs... we both have a right to do it.” See Fundacion Ethos, “Cadenas del Gobierno suman 151 Horas al Aire” [Mandatory broadcasts add up to 151 hours].

opposition.⁵³ Photographs of individual journalists critical of the government were shown in *Enlaces*, and TV viewers were urged “not to forget their faces.” President Correa used his weekly radio and television address to question the probity, intentions, and competence of the country’s press, which he accused of serving “corporatist interests” and the old “partitocracy.” This highly tense atmosphere forced many journalists to practice self-censorship in their effort to avoid the government’s repression via legal or financial means. Prominent journalists stepped down from their jobs or fled the country—including Carlos Vera (*Ecuavisa*), Emilio Palacio (*El Universo*), Jorge Ortiz, and Janeth Hinostroza (the latter two from *Teleamazonas*).

Judicial Arena: Captured and Deployed against the Opposition

One of the main overarching tenets in the literature on judicial politics in Latin America (and elsewhere) is that stronger courts emerge from a context of increasing political fragmentation. A higher number of veto players prevents dominant actors from crafting pliant courts, while the uncertainty associated with the inter-temporal rotation of parties in office creates incentives to secure more independent courts as political insurance for opposition parties.⁵⁴ While the Ecuadorean historical experience shows that divided government and fragmented party systems do not necessarily ensure an independent judiciary, it does corroborate that dominance by one party is likely to destroy any semblance of independence.

Ecuador’s judicial system hardly has been a paragon of political independence since (or before) the 1978 transition to democratic rule.⁵⁵ Moreover, abuse by chief executives has not been uncommon. President Febres Cordero forcefully averted the rightfully chosen Supreme Court justices from taking possession of their posts, and he famously retained some influence over *part* of the justice system long after he left office. President Gutierrez unconstitutionally dismissed the Supreme Court in a failed desperate bid to survive politically. Only President Correa, however, was able to submit virtually the entire justice system (alongside other institutions of horizontal accountability) to the writ of the Executive. Authoritarian-minded incumbents often attempt to subordinate the judiciary via impeachment, changing the rules of appointment, and various methods of co-optation of independent judges (bribery, extortion, and others). The first maneuver the

⁵³ Ibid.

⁵⁴ Jodi Finkel, *Judicial Reform as Political Insurance: Argentina, Peru and Mexico in the 1990s* (South Bend, IN: Notre Dame University Press, 2008).

⁵⁵ Santiago Basabe-Serrano, *Jueces sin Toga: Políticas Judiciales y Toma de Decisiones en el Tribunal Constitucional de Ecuador (1999–2007)* [Judges without robes: Judicial rulings and decision-making in the Constitutional Tribunal of Ecuador] (Quito, Ecuador: FLACSO-Ecuador, 2011).

ruling party used to co-opt the judicial system was the illegal disposition put forth by the PAIS-dominated interim Congress to force twenty-one of thirty-one justices of the Supreme Court to step down, which prompted the resignation of many of the remaining ten members in protest.⁵⁶ The Supreme Court had been chosen via meritocratic criteria under international supervision, making it the most independent of the democratic era.⁵⁷ The new Supreme Court, by contrast, was stacked with PAIS loyalists. As part of the broader co-optation effort, the government removed “over 1500 judges and court officials after disciplinary proceedings, poor evaluations and forced retirements.” They were replaced by loyalists “without appropriate training.”⁵⁸ As a result, the judicial system not only was neutralized as a check-and-balance branch, but also usefully added to the ruling party’s ample repertoire of political weapons to deploy against its opponents. Many examples can be cited to show President Correa’s personal intervention in judicial processes. None was more public than the lawsuit Correa brought against *El Universo* columnist Emilio Palacio for alleged criminal libel. In a process plagued with irregularities—in which the judge in charge privately admitted to having received the sentence in a pen-drive amid promises of a professional promotion—the newspaper was sued for \$80 million dollars and its three directors were sentenced to three years in jail.⁵⁹ That same year, Correa filed a \$10 million suit against the authors of a book, *El Gran Hermano* [Big brother], which detailed government contracts that benefited the president’s older brother, Fabricio. It was the enormous national and international backlash these cases generated that presumably prompted Correa to “pardon” all those charged in both suits.⁶⁰ In many instances, Correa’s public instructions were enough to jumpstart court proceedings—including the incarceration of businesswoman Irma Parra because she flashed a sign of disapproval at him, and the detention of Colonel César Carrión for contradicting the president’s version of the events of September 30, 2010. These and other such episodes showcased in stark fashion the judiciary’s lack of independence from the Office of the President.

Capture of the Key Judicial Bodies: Council of Magistrates and Constitutional Court

The main ambition of President Correa in launching the Constitutional Referendum of May 2011 was to intervene in the country’s judicial system. He

⁵⁶ “Magistrados Repudian Reforma” [Magistrates repudiate the reform], *La Hora*, July 18, 2008.

⁵⁷ Hurtado, *Dictaduras del Siglo XXI* [Twenty-first century dictatorships], chap. 3.

⁵⁸ Human Rights Watch, “Human Rights Report 2013: Ecuador.”

⁵⁹ “Ecuador: First the Media, Now the Indigenous,” *Latin American Newsletter* (February 2, 2010), <https://www.latinnews.com/item/50473-ecuador-first-the-media-now-the-indigenous.html> (September 6, 2018).

⁶⁰ “Gran Hermano. Correa Concreta el Perdón” [Big brother: Correa issues a pardon], *El Comercio* [Commerce], March 9, 2012.

openly had voiced the need to, in his own words, “*meter las manos en la justicia*” (get my hands into the justice system), avowedly to combat the inefficiency and corruption for which it had been known historically. In an attempt to divert public scrutiny from the Executive’s intention of power-accretion, the referendum included a total of ten questions ranging from citizen security to bullfighting and casinos. The referendum included two central reforms to the judicial branch: it sought to grant the Executive powers of appointment to the Supreme Court of Justice, and it proposed the creation of a *Consejo de la Judicatura de Transición* (CJT), or a Council of Magistrates, a transitional body with the power to make reforms throughout the judicial system. The first wrestled away powers of appointment from the *Consejo de Participación Ciudadana y Control Social* (CPCCS), which had been established by Correa’s own 2008 constitution, with the avowed aim to render the judicial branch more independent from politicians. The powerful Council of Magistrates, the referendum proposed, was to be staffed with representatives from the Presidency, the National Assembly, and the CPCCS. All three institutions were in the hands of the ruling party, thus ensuring that the CJT would be anything but plural in composition.⁶¹ This was particularly worrisome from the standpoint of future judicial impartiality because of the virtually limitless powers of the transitional body: it could appoint, sanction, and replace judges at all levels in the judicial system in the purported quest to “restructure the state’s judicial function.” One of President Correa’s trademark battle cries was the judicial system’s lack of independence from the “partitocracy.” While not devoid of some truth, the reform substantially worsened the problem: the implementation of the Correa-sponsored referendum fatally precluded any such judicial independence.

Another crucial judicial institution that the Correa government captured was the Constitutional Court (CC). The 2008 Montecristi Constitution endowed the CC with more functions and attributions than it ever had enjoyed.⁶² In the words of jurist Ivan Castro Patino, “there has never been a court as powerful [as the CC] in the history of Ecuador.”⁶³ In November 2011, a selection was undertaken of nine principal judges and nine supplementary

⁶¹ “CPCS en Mandos de PAIS” [CPCS in the hands of PAIS party], *La Hora*, April 15, 2010.

⁶² The CC was not only the exclusive interpreter of the constitution, but also it became the highest organ in the interpretation of human rights international treaties signed by Ecuador. In addition, it had the power to revise judicial rulings of last instance, a role formerly within the purview of the Supreme Court of Justice (now called the Corte Nacional). The CC can declare void rulings by the CSJ, and decisions by the CC are binding on all operators of the judicial system. Furthermore, it is the only institution that can authorize a political trial against the president and can emit an edict for the dissolution of the National Assembly if the latter is judged to have transgressed its constitutional prerogatives.

⁶³ “El Oficialismo se Filtra en Corte Constitucional, el Más Poderoso Ente en Ecuador” [The official party is infiltrated in the Constitutional Court, the most powerful institution in Ecuador], *El Universo*, November 11, 2012.

ones to staff the CC until 2021. Among the nine principal judges, five were named by the Executive, two by the legislature, and two by *Transparencia*. Virtually all of the newly appointed magistrates were known to have worked in institutions of the Executive branch or other state institutions as ruling party loyalists, and some were holdovers from the previous transitional CC, which consistently had ruled in a pro-incumbent direction.⁶⁴ Predictably, the rulings of the Constitutional Tribunal, and later of the Constitutional Court, began to systematically favor the chief executive—with many magistrates' rulings decided by 9 to 0 votes. This partiality was particularly evident in matters in which key governmental interests were at stake. Among the major landmark decisions favoring the incumbent were the following: the approval to hold the May 2011 popular referendum and the appropriateness of the questions therein contained,⁶⁵ which included proposed reforms to the justice system and mass media; the granting of a green light to the ambiguity enshrined in the *Código de la Democracia* regarding freedom of speech; the elimination of article 63 of the Organic Laws of the Legislative Function, thus enhancing the veto powers of the President of the Republic vis-à-vis the legislative branch; and other troublesome changes.

Reforms to the Penal Code and Criminalization of Protest

Opponents to Correa's administration persistently denounced government manipulation of the legal penal code aimed to silence public protests. These claims were given credence by a 2012 Amnesty International report detailing numerous cases in which social leaders—particularly those representing indigenous groups—were detained by police and accused by the General District Attorney's Office without legitimate legal basis. The reputable human rights organization summarized its findings thus:

Our organization has received numerous reports that indicate that the system of criminal justice in Ecuador is being used to silence protests against laws and public policies proposed by the central government with regards to natural resources. Among the methods employed, in what seems to be a deliberate attempt to hinder the right to freedom of expression and

⁶⁴ "Asumirá Nueva Corte Constitucional en Ecuador con Vínculos con el Ejecutivo" [New Constitutional Court with links to the Executive takes office], *El Confidencial* [Confidential], November 5, 2012.

⁶⁵ The CC used its powers to merely rephrase some of the "emotionally charged" referendum's questions to render them more neutral in their expressive content. See "Corte Constitucional de Ecuador aprueba Referendo de Correa" [Constitutional Court approves Correa's referendum], *El Universal* [Universal], February 16, 2011. The magistrates of the CC rejected a request from judge Nina Pacari, who maintained that the reforms proposed in four of five questions should be deliberated by the Constituent Assembly (and not via referendum) because they limited rights that were enshrined in the constitution.

association are unfounded charges, prolonged investigations, actions by public prosecutors to amplify the duration of said charges, restrictive bail conditions, and charges related to terrorism or the illegal obstruction of public roads.⁶⁶

The articles of the Penal Code most frequently used by public prosecutors against protest leaders were articles 158 (sabotage), 160 (terrorism), and 129 (obstruction of public roads). The pervasiveness with which the government abused the justice system catapulted the issue to the forefront of the national political debate. It was only as a result of the ensuing political visibility and the associated political cost that the AP-dominated National Assembly decided to grant several amnesties involving more than 350 people, with the avowed aim to “correct judicial errors and unfair sanctions against [protestors who were] politically persecuted and other innocent people.”⁶⁷ Yet, this gesture did not signal a change in the government’s *modus operandi*. The pervasive criminalization of protest continued unabated in subsequent years, as an Amnesty International report documented. The main accomplice to these human rights violations was the Attorney General: all the illegal detentions were carried out by the police and then backed by a formal accusation from the public prosecutor. Far from showing any institutional autonomy, its actions revealed the Office of the Attorney General (*Fiscalia*) to be a tool of the Executive. The purposeful designation of Galo Chiriboga (someone with known family ties to the president) as Attorney General in 2011, in a selection process riddled with irregularities, paved the way for the continued criminalization of protest. The government particularly targeted indigenous and environmental activists.⁶⁸ In 2011, President Correa sent a legislative bill (called *Codigo Organico Integral Penal*) to the National Assembly, aimed at amplifying the existing ambiguity enshrined in the legal code, enabling a more discretionary and arbitrary interpretation of it.

In 2016, the government dissolved the oldest and largest teachers’ union, the National Union of Educators (UNE), on the grounds that the union had not complied with registration requirements.⁶⁹ As in many other cases, the government’s *modus operandi* aimed at constraining associational life, shutting down a focal point of opposition. Scholar Catherine Conaghan has documented a “contra-associational strategy” under the Correa government

⁶⁶ Amnistía Internacional, “*Para que Nadie Reclame Nada*”: *Criminalización del Derecho a la Protesta en Ecuador?* [Criminalization of the civil right to protest in Ecuador?] (London: Amnesty International Publications, 2012).

⁶⁷ Tribunal Constitucional, Registro Oficial, Año II, N393 (July 31, 2008).

⁶⁸ James D. Bowen, “Countries at the Crossroads 2011: Ecuador” (New York: Freedom House, 2012).

⁶⁹ “Una Resolución del Ministerio de Educación Declara Disuelta la UNE” [A resolution of the Ministry of Education dismantles the UNE party], *El Comercio*, August 18, 2016.

based on a plethora of regulatory, bureaucratic, and legal reforms aimed at extending Executive control over civil society.⁷⁰

The How of Democratic Erosion

The Correa government was able to extinguish democracy by transforming its social power (public approval) into institutional power. The keystone of this *modus operandi* to build political hegemony was the convocation of a Constituent Assembly and the concomitant draft of a new constitution with features of hyper-presidentialism.⁷¹ Outright violations of the constitution and praetorian tactics aided by a permissive opportunity structure (overwhelmingly favorable public opinion and very weak institutions) also played a role. Indeed, the transition away from democracy in Ecuador can be reasonably dated to the unconstitutional firing of fifty-seven lawmakers, an institutional coup that decisively altered the balance of power between Correísmo and its partisan opponents. Thereupon, it became easier to jumpstart the process of slanting the playing field across different arenas of competition. In any case, the process of autocratization (institutional capture, slanting of the electoral playing field, and co-optation of civil society and the mass media) was steady and continuous throughout the decade of the Correato.⁷² In 2017, Freedom House ranked Ecuador as one of twenty countries where democracy scores (civil and political liberties) had declined most prominently over the past ten years.⁷³ Correa's public approval numbers were remarkably high for most of his decade in power, therefore, the use of plebiscitarian tactics worked rather well in concentrating power. But institutional power played a central role in building a self-sustaining competitive authoritarian regime. As in other transitions from democracy to competitive authoritarianism, a logic of increasing returns to power ensued: each new institutional conquest endowed the incumbent with more political weapons to further debilitate the opposition (whether party-based, media-based, civil society-based, and in other realms). As the Correa government conquered new institutional spaces, the ability of the opposition to halt—let alone reverse—increasing autocratization dwindled. Challenging the government's narrative and exposing its shenanigans also became more difficult as independent journalists and mass-media outlets faced an increasingly dangerous legal and political milieu in which to operate. Only

⁷⁰ Catherine Conaghan, "Contra-Associational Strategy in a Hybrid Regime: Ecuador 2007–2015," *Bulletin of Latin American Research* 36, no. 4 (2017): 509–525.

⁷¹ Cesar Montufar, "Rafael Correa and His Plebiscitary Citizens' Revolution," in *Latin American Populism in the Twenty-First Century*, ed. Carlos de la Torre and Cynthia Arnson (Baltimore, MD: John Hopkins University Press, 2013), 313.

⁷² Carlos de la Torre and Andres Ortiz Lemos, eds., "Populist Polarization and the Slow Death of Democracy in Ecuador," *Democratization* 23, no. 2 (2016): 221–241.

⁷³ Freedom House, "Freedom in the World 2017—Largest 10-Year Score Declines."

the worsening economic performance of Ecuador from 2013 onward began to dent Correa's popularity, which manifested itself in a number of local and mayoralty races won by the opposition, as well as the very competitive 2017 presidential election—which Correísmo won by a slim margin.

Conclusion

The regularity in the government's repression of political and civil rights and the systematic slanting of the playing field in all relevant arenas of contestation rendered political competition in Correa's Ecuador fundamentally unfair. Correa's charisma and genuine popularity aside, opinion polls and official electoral results inescapably reflected the consequences of incumbent hyper-advantage in access to mass media and state institutions writ large. The verifiably more slanted political playing field in the 2013 election, in comparison to the 2009 presidential contest, contributed to a less competitive election. Opposition political figures operated with low visibility, few accessible political weapons, and were devoid of recourse to impartial state institutions to redress abuses of power. Ecuador's historically weak institutions proved unfit for the task of defending the country's institutional infrastructure when confronted with a political juggernaut (Correísmo) that had public opinion on its side.

Rafael Correa's promise to spearhead an era marked by a new way of conducting politics was belied by Executive practices very much in line with the Ecuadorean historical norm—clientelism, clandestine negotiation, coercion, co-optation, praetorianism, and prebendalism. The rule of law was brazenly contravened both during the quest for a new constitution and its aftermath, as governmental actions regularly bypassed or violated constitutional norms enshrined in Montecristi. Rafael Correa's resounding victory in the "mother of all political battles" for a new constitution laid the foundation for the subsequent Executive encroachment upon institutions of horizontal accountability and the mass media. The judiciary witnessed thoroughgoing institutional reengineering, resulting in incumbent capture of the most important judicial bodies. The old Congress was illegally purged of much of its opposition membership, while a brand new National Assembly took charge, operating with greatly reduced constitutional powers. The mass media came under relentless repression, such that many outlets were shut down or forced to practice self-censorship, while the government erected a new parallel media empire that facilitated President Correa's ubiquitous presence on radio and TV. Elections and referenda in the Correa era were rendered fundamentally unfair because of the capture of the electoral management body, discriminatory electoral legislation, and slanted mass media, legislative, and judicial arenas.

The avowed aim of the Citizens' Revolution was to break the back of "political mafias," reinvent legislatures and judicial bodies, and install a "participatory democracy." The hallowed "reinvention" of the legislature and the judiciary, however, came at a high cost from the standpoint of democratic

governance. The Correa government neutralized the democratic institutions that were tasked by statute with exercising horizontal accountability. Once captured, the government predictably used them as political weapons at the ruling party's service. The repeated deployment of these weapons against political actors not aligned with the incumbent had a devastating effect on the political playing field. Opponents found reduced spaces for dissent and a more hostile environment in which to exercise contestation, in an elusive struggle to hold the government accountable. Nevertheless, spaces for contestation remained across different arenas. Electoral contests, while unjust, were free of massive fraud and not preordained in terms of their outcome, as the unexpectedly narrow incumbent victory in the 2011 referendum and the 2014 municipal elections showed. In summation, Ecuador under Correa fits neither the category of a "democracy with adjectives" nor that of a full-fledged autocracy. An examination of the manifold legal-cum-political reforms enacted to tilt various playing fields situate it squarely under the label of a competitive authoritarian regime.