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FEATURED Q&A

Will a New Justice Push Brazil's High Court to the Right?



Conservative evangelical André Mendonça took his seat last month on Brazil's Supreme Court. // File Photo: Brazilian Government.

Q Brazil's Senate on Dec. 1 approved André Mendonça, a conservative evangelical former justice minister, as a member of the country's Supreme Court. President Jair Bolsonaro's nomination of Mendonça followed controversy last year when Bolsonaro tapped moderate Kássio Nunes for a seat on the court, angering the president's evangelical base. To what extent will Mendonça's nomination help Bolsonaro politically? What are the most important decisions that will soon be in front of the court, and how much will Mendonça influence those decisions? Will Mendonça significantly push the court to the right?

A Guilherme Casarões, assistant professor at the São Paulo School of Business Administration of the Fundação Getulio Vargas: "Bolsonaro's vow to place a 'terribly evangelical' justice on the Supreme Court has finally come true through the nomination of Presbyterian pastor André Mendonça. It was an important sign to the government's evangelical base, whose leaders are still loyal to the president, but whose voters—most of whom are lower-class, urban Brazilians—had slowly distanced themselves from Bolsonaro as the country's economy worsened and inflation skyrocketed. This occurs on the eve of the 2022 elections, where former President Luiz Inácio Lula da Silva is so far the unchallenged front runner even among evangelicals. Religious conservatives—with their churches, resources and followers—remain among Bolsonaro's key supporters. How Mendonça will act as a Supreme Court justice is still unclear. In Brazil, the 11 justices are not divided along conservative-progressive lines, but rather between guaranteeism (whose

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Chinese Gov't Reopens Embassy in Nicaragua

China announced that it had reopened its embassy in Nicaragua, a move that came three weeks after the Central American country broke diplomatic ties with Taiwan and established them with China.

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Brazilian Health Authorities to Investigate Cruise Companies

Brazil's federal health regulator, Anvisa, said it would investigate cruise companies for alleged violation of Covid-19 protocols.

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Ecuador's Lasso Rejects Opposition to Mining Projects

Ecuadorian President Guillermo Lasso rejected opposition to the expansion of new mining projects in a newspaper interview. Last month, the country's constitutional court invalidated a permit for drilling in the Los Cedros forest.

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Lasso // File Photo: Ecuadorian Government.

POLITICAL NEWS

China's Government Reopens Embassy in Nicaragua

China announced Friday that it had reopened its embassy in Nicaragua for the first time since 1990, a move that came three weeks after Managua broke relations with Taiwan in favor of establishing formal ties with Beijing. "This again shows that upholding the one-China principle is an overriding trend that represents international justice and enjoys popular support," Chinese Foreign Ministry spokesman Zhao Lijian said in a statement. "The resumption of diplomatic ties between China and Nicaragua serves the fundamental and long-term interests of both sides and is welcomed and supported by the two peoples." In the statement, the Chinese Foreign Ministry added that "China is ready to work with Nicaragua to enhance friendly exchanges, promote practical cooperation in various sectors, open up new prospects in the bilateral relations and let our friendship take root, blossom and bear fruit to benefit the two countries and two peoples." Nicaraguan Foreign Minister Denis Moncada said China and Nicaragua have an "ideological affinity," and he thanked Beijing for donating one million doses of the Sinopharm Covid-19 vaccine to Nicaragua, the Associated Press reported. "You are welcome in our Nicaragua ... with the certainty that both countries have ahead of us a future of successes and victories in our brotherly relations," said Moncada, Al Jazeera reported. Nicaragua's government broke relations with Taiwan on Dec. 9 and later in December said that it had seized Taiwan's former embassy and other diplomatic offices in Nicaragua, saying the offices belong to China, the AP reported. China opened its new embassy in a different location, however, and it is unclear what Beijing plans to do with the former Taiwanese diplomatic offices, the AP reported. Taiwan reacted to Nicaragua's seizure of the properties by condemning what it called the "gravely illegal actions of the Ortega regime." It also blasted Nicaraguan President Daniel

Ortega's government for giving Taiwanese diplomats just two weeks to leave Nicaragua. Since last May, Ortega's government has pursued a wide-scale crackdown of the country's opposition. Last November, Ortega was re-elected to a fourth consecutive term in a vote that has been widely criticized as a sham after Nicaraguan authorities imprisoned or forced into exile nearly anyone who might pose a serious challenge to Ortega. Margaret Myers, director of the Asia & Latin America Program at the Inter-American Dialogue, told the Advisor that support from China is critical for Ortega's government. "As Ortega dismantles Nicaraguan democracy, and amid economic contraction, support from China, Russia, and other external partners is increasingly critical," said Myers.

ECONOMIC NEWS

Ecuador's Lasso Rejects Opposition to New Mining Projects

Ecuadorean President Guillermo Lasso rejected environmental opposition to the expansion of mining projects in an interview with the Financial Times, the newspaper reported. In a ruling on Dec. 1, Ecuador's constitutional court cited the rights of nature and the environmental consequences of copper mining in the Los Cedros forest in its decision to invalidate the environmental permit for drilling to begin, El Universo reported. The court also said that Lasso's government had not previously consulted with local communities on the Los Cedros project, which is among the \$30 billion worth of projects Lasso spoke of at an Ecuador Open for Business event, the Financial Times reported. In his interview with the newspaper, Lasso said he will make an effort to win over the public opinion by "explaining what kind of mining this is, responsible, sustainable mining and defending the greater interest of the majority of Ecuadoreans above the political interests of Indigenous leaders who want to make a campaign on the basis of sacrificing the Ecuadorean economy." He added, "To deny

NEWS BRIEFS

Brazil's Bolsonaro Hospitalized With Intestinal Blockage

Brazilian President Jair Bolsonaro was hospitalized this morning with an intestinal blockage and was in stable condition, said Vila Nova Star hospital in São Paulo, Reuters reported. Bolsonaro was flown to the hospital after experiencing discomfort while on vacation in the southern state of Santa Catarina, The New York Times reported. The hospital said it was unclear when he would be discharged.

E.U. Trade Chief Urges Chile's President-elect to Sign Trade Deal

Valdis Dombrovskis, the European Union trade commissioner, is urging Chile's left-wing president-elect, Gabriel Boric, to sign a trade agreement that current President Sebastián Piñera negotiated with the European Union, Dombrovskis told the Financial Times in an interview. This deal updates and strengthens a 2002 agreement, giving the European Union more access to lithium and the capacity to produce batteries, the newspaper reported. "This is a good deal for both Chile and E.U. member states, boosting our mutual trade and doing so in a way that is sustainable," Dombrovskis said.

Brazilian President Announces Credit Line Following Deadly Floods

Brazilian President Jair Bolsonaro on Friday announced a credit line worth 700 million reais (\$125.67 million) in response to the severe flooding that killed at least 24 people and has left tens of thousands homeless in Brazil's northeastern region, Reuters reported. This announcement came a day after Bolsonaro declined an offer of aid from neighboring Argentina for the state of Bahia, which was strongly hit by the heavy rains that caused some dams to fail.

ourselves this possibility is to deny the future development of the country, and this government will not let that happen." Lasso has not been the only political actor to denounce this decision—members of Ecuador's Chamber of Mining have also stated their disapproval of the decision, saying that it generates judicial insecurity, El Universo reported.

BUSINESS NEWS

Brazilian Health Authorities to Probe Cruise Companies

Brazil's federal health regulator said Sunday that it will investigate cruise companies for alleged violations of Covid-19 protocols, Agence France-Presse reported. "Failure to follow health protocols and disobeying restrictive measures imposed by the authorities constitute infractions that, if confirmed, will result in fines and the suspension of [cruise companies'] activities," the regulator, Anvisa, said in a statement, the wire service reported. The agency also said it would reinforce a recommendation that it made last Friday to Brazil's health ministry to immediately halt all cruises amid the surge in Covid-19 cases, driven by the Omicron variant of the novel coronavirus. In November, Brazil allowed cruises to restart, but it ordered cruise companies to enforce strict protocols, including testing passengers and quarantining those who test positive. Anvisa said it is monitoring five cruise ships operating along Brazil's coast, Reuters reported. Outbreaks occurred on three ships around New Year's Day, AFP reported. Twenty-six passengers and two crew members had tested positive aboard the MSC Preziosa, which was allowed to dock in Rio de Janeiro on Sunday. Last Thursday, Brazilian health authorities also halted the operations of two other ships, the Costa Diadema and the MSC Splendida after those ships also reported positive Covid-19 cases onboard. Cruise line Costa Crociere operates the Diadema, while MSC Cruises operates the Preziosa and Splendida.

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adherents tend to position themselves in favor of the defendant) and legalism or punitivism (whose followers act according to the strict letter of the law). In this sense, Mendonça claims he is a guaranteeist, which goes against the desire of Bolsonaro's radical supporters for harsher punishments for a multitude of crimes, from petty thefts to corruption. However, the real electoral game changer for Bolsonaro will be Mendonça's positions on issues sensitive to evangelicals, such as abortion, LGBTQIA+ rights, homeschooling and mandatory vaccination. Judging from the new justice's history, he will likely place the Bible before the Constitution. But one justice alone hardly will be able to break some of the court's more progressive consensus, which remain on a delicate balance with Congress and the president. And the election is just around the corner."

Amanda Mattingly, security fellow at the Truman National Security Project: "President Jair Bolsonaro's nomination of the evangelical André Mendonça should come as no surprise. After disappointing his base last year with the Kássio Nunes Marques nomination, Bolsonaro needed to shore up support and install a true conservative ally on the Supreme Court. Mendonça won Senate approval 47-32 on the basis of his technical abilities and a promise to respect Brazil's secular tradition, saying 'In life, the Bible; in the Supreme Court, the Constitution.' However, as an evangelical, Mendonça is sure to represent the conservative values of the growing religious right in Brazil even if he is unable to push the court significantly to the right. No doubt, Bolsonaro is hoping Mendonça will represent the president's worldview as well, especially as the predominantly left-leaning court faces several significant appeals by the president and just recently ordered an investigation into Bolsonaro's Covid-19 claims. Bolsonaro is clearly looking toward his re-election bid as well. Polling by Datafolha indicates that only

23 percent of Brazilians think the Supreme Court is doing a good job, so Bolsonaro will try to discredit the institution while also making court nominations an issue in the campaign. Bolsonaro has been a fierce critic of the court and recently reminded voters that the next president will nominate two more justices to replace Ricardo Lewandowski and Rosa Weber, who are to retire in 2023. Taking a page from the U.S. conservative playbook, Bolsonaro will try to rally religious conservatives and anti-establishment voters in opposition to the court. Whether or not this will be an animating force in Brazilian politics, however, remains to be seen."

A James Bosworth, author of the Latin America Risk Report: "André Mendonça's appointment is a pure political play by Bolsonaro to mobilize and excite the base of evangelical voters whom the president needs in order to advance to the second round of the election. Bolsonaro also hopes to have a friendly voice on the court should he need to dodge future corruption investi-

“ André Mendonça's appointment is a pure political play by Bolsonaro...”

— James Bosworth

gations or manipulate the judicial system to his benefit during the upcoming campaign and election. Mendonça has a minimal legal track record, and the entire narrative around him is about his identity as a conservative and an evangelical. How will he vote on future budget legislation issues or technical constitutional matters that reach the court? The honest answer is that nobody knows. It's possible that Mendonça is a pure conservative, but it's also possible that he is only a conservative on social and political issues

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and will prove to be a less predictable swing vote in other legal areas.”

A **Charles H. Blake, professor of political science at James Madison University:** “André Mendonça’s joining Brazil’s Supreme Court on Dec. 16 fulfilled a desire of the National Association of Evangelical Jurists (ANAJURE). An evangelical pastor had reached the highest court in Brazil. ANAJURE wrote on its website in June 2013 that only a Christian cosmivision could produce a justice system providing for the equality and dignity of people. At his review hearings in the Senate, Mendonça promised to have

“**As attorney general and as justice minister, Mendonça was known as a fierce defender of the Bolsonaro administration.**”

— Charles H. Blake

his jurisprudence guided by the Constitution and not the Bible. He said that he would defend freedom of religion for all. Yet after his confirmation, Mendonça proclaimed that his selection constitutes ‘one step forward for one man and one leap forward for evangelicals.’ In turn, President Bolsonaro tweeted that his own commitment to place someone ‘terribly evangelical’ on the Supreme Court had been fulfilled. Onlookers should keep in mind that Bolsonaro is the first evangelical Christian to serve as Brazil’s president. Evangelicals now account for around 30 percent of all Brazilians and comprise roughly one-fourth of the members of the lower house of Brazil’s Congress. As attorney general and

as justice minister, Mendonça was known as a fierce defender of the Bolsonaro administration. Thus, he is considered likely to take a hard line on civil liberties questions from the Supreme Court. With Bolsonaro’s presidential disapproval ratings rising to over 60 percent during the second half of 2021, it seems that Mendonça’s key new task is to help rally evangelical voters to the polls in the October 2022 presidential election.”

A **Nicholas Borges, political analyst at BMJ Consultores Associados:** “The approval of the new justice comes at a critical and delicate time for President Jair Bolsonaro. A recent survey by Ipec, formerly Ibope, indicates that both former President Luiz Inácio Lula da Silva and Bolsonaro are the preferred presidential contenders among evangelical voters. Among the most sensitive agendas issued before the Supreme Court will be second instance imprisonment. Mendonça will also undergo a test of loyalty to the government on very sensitive issues such as the ‘Marco Temporal’ in Indigenous areas. He will also vote on Bolsonaro’s decree that eases restrictions on firearms as well as on the issue of judicial bonds (Precatórios). Supreme Court nominees do not strictly follow the interests of those who nominated them. Mendonça will also occupy a seat on the 2nd panel of the Supreme Court, which is responsible for judging cases arising from Operation Car Wash. His support of Operation Car Wash was among the main reasons for the political opposition to his nomination.”

The Advisor welcomes comments on its Q&A section. Readers can write editor Gene Kuleta at gkuleta@thedialogue.org.

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