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THEDIALOGUE

FEATURED Q&A

Will Cuba's New Penal Code Silence Political Dissent?

Cuban Supreme Court President Rubén Remigio Ferro said the country's new penal code is an effort to preserve "the social peace and stability of our nation," but human rights groups have criticized it. // File Photo: @RubenRemigioCU via Twitter.

Q Cuba's new penal code, which was approved in May and came into force on Dec. 1, could further limit freedoms of expression and the right to assemble, activists and human rights organizations warned. It comes as the country faces compounding crises and deepening discontent amid the government's continued issuing of harsh sentences to participants of Cuba's widespread 2021 protests. What are the most significant changes of the new penal code? What are the motivations behind it, and what does it seek to achieve?

A Mariakarla Nodarse, assistant director for Cuba at the Washington Office on Latin America: "The new penal code–drafted by Cuba's Supreme Court amid serious concerns over the lack of transparency and public consultation–contains a series of broad and ambiguous provisions aimed at curtailing freedoms of expression and assembly and silencing dissent. The code prevents citizens from challenging authorities. Article 120, deeming a person's practice of their own constitutional rights as arbitrary if they are perceived to be in violation of Cuba's political system, is a direct threat to any form of public dissent or expression. This could include any form of peaceful assembly or protest. Additionally, the new legislation codifies the criminalization of the use of social media, creating a range of vaguely worded offenses related to telecommunications, information and technology that explicitly allows the authorities to severely limit freedom of expression. Furthermore, article 143 condemns, with sentences ranging between four and 10 years in prison, the receipt of foreign funding perceived to finance activ-

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U.S. Supreme Court Extends Title 42 Temporarily

The U.S. Supreme Court on Monday temporarily allowed the extension of Title 42, the immigration policy put in place in 2020 that allows border agents to turn away asylum seekers over public health concerns.

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French livestock farmers say the new trade deal allows Chile to trade without having to respect the same standards that bind European Union member states.

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Human Rights Group Visits Peru Amid Protests

A delegation from Inter-American Commission on Human Rights will visit Peru today to assess the country's political situation in the aftermath of former President Pedro Castillo's ouster this month.

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Castillo // File Photo: Peruvian Government.

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POLITICAL NEWS

Human Rights Group Visits Peru in Wake of Protests, Violence

A delegation from the Organization of American States' Inter-American Commission on Human Rights (IACHR) will visit Peru today to assess the country's political situation in the aftermath of former President Pedro Castillo's ouster this month, La República reported. The delegation, which will meet with national authorities and representatives of civil society, comes as street violence and deadly protests continue to disrupt the Andean nation's transportation systems. Another OAS visit is scheduled for next month. In related news, Peru's Congress is set to resume negotiations today regarding bringing the presidential election date forward, La República reported. Also, Gen. David Ojeda on Monday was appointed as the new General Commander of the Army, replacing Walter Horacio Córdova Alemán, who resigned on Dec. 7 amid former President Pedro Castillo dramatic exit from office and imprisonment, state news agency Andina reported. The transitional President, Dina Boluarte, is expected to announce a new prime minister today.

U.S. Supreme Court Extends Title 42 Temporarily

The U.S. Supreme Court on Monday temporarily allowed the extension of Title 42, the immigration policy put in place in 2020 that allows border agents to turn away asylum seekers over public health concerns, The Hill reported. In the order, Chief Justice John Roberts granted a stay to delay the expiration of the policy, which had been set for Wednesday. Last month, a federal judge struck down the policy, but a group of 19 Republican-leaning states petitioned to allow it to continue in force. "Earlier today, I filed a motion before SCOTUS asking to halt the Biden's scrapping of Title 42," Texas Attorney General Ken Paxton said in a tweet, referring to the Supreme Court of the United States. "Just now, SCOTUS returned a decision in our favor. The fight to keep Title 42 in place continues," he added. The city of El Paso, Tex., along the U.S.-Mexico border, declared a state of emergency on Saturday as migrants poured into shelters in advance of Title 42's planned expiration, The Hill reported. In a tweet, Texas Governor Greg Abbott said Title 42 should stay in place. "Texas and other states are insisting that the Court leave Title 42 in place. Today's order is a step in that direction. This helps prevent illegal immigration," Abbott said in a tweet. Then-President Donald Trump put the restrictions in place near the beginning of the Covid-19 pandemic, saying they were needed to help prevent the spread of the disease. Critics of the policy say it is ineffective and that more comprehensive immigration reform is needed. "Texas and other states are insisting that the Court leave Title 42 in place. Today's order is a step in that direction. This helps prevent illegal immigration," said Stephen Yale-Loehr of Cornell Law School, CNN reported. In his order, Roberts said he wants the Biden administration to respond to the appeal by the states by today at 5 p.m. Interpol announced last week that a recent operation targeting human trafficking and migrant smuggling across Latin America and the Caribbean led to more than 250 arrests in 32 countries. A total of 9,015 irregular migrants were detected in the crackdown between Nov. 28 and Dec. 2, leading to 128 women and two men being rescued from human trafficking. Most of the trafficked victims were from Colombia and Venezuela, Interpol said in a statement.

Brazil Supreme Court Rules Against 'Secret Budget' Practice

Brazil's supreme court on Monday ruled that a congressional practice known as the "secret budget" is unconstitutional, the Financial Times reported. The legislatively designated funds had come to represent about 25 percent of Brazil's discretionary federal budget under

NEWS BRIEFS

Canada's Scotiabank Sees Record Profit Growth From Jamaica Unit This Year

Canada's Scotiabank said its Scotia Group Jamaica unit has logged a record 35 percent growth in consolidated net profit for its 2022 financial year, the Jamaica Observer reported Monday. The company, which is involved in banking, investment and insurance segments in the Caribbean nation, saw profits rise to 11.68 billion Jamaican dollars ($79 million) this year, according to the report.

TotalEnergies-led Group Wins Rights in Brazil's Agua Marinha Block

Paris-based TotalEnergies said on Monday that it had won rights to explore for oil and gas in Brazil's Agua Marinha block in a bidding cycle held by Brazil's National Petroleum Agency. State oil company Petrobras has exercised their right to take a 30 percent participating interest and operatorship share. TotalEnergies will also participate in the block with a 30 percent interest, alongside Qatar Energy and Malaysia-held Petronas Petróleo Brasil, both with 20 percent.

CD Capital Sells Gold Investment in Ecuador for $96 Million

London-based CD Capital announced today it had monetized its long-term investment in Lundin Gold's Ecuador mine for a total consideration of 130.7 million Canadian dollars ($96 million). The company says it was the first institutional investor in 2014 to support financing for Lundin Gold's Fruta del Norte gold mine in the Andean nation. Over the past 15 years, CD Capital has launched three private equity funds, raising $1 billion in long-term capital for projects in Brazil, Peru, Argentina and Guatemala, as well as other countries outside Latin America.

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conservative President Jair Bolsonaro. Lawmakers fell under criticism for doling out funds with little oversight. The vote was 6-5, Agência Brasil reported. While budget preparation in Brazil is mainly a responsibility of the executive branch, a part of federal public resources had been reserved for "parliamentary amendments," slated for lawmakers' discretionary use. In response to criticism from public interest groups and journalist reports, Brazil's Congress has approved a resolution that changes the rules of resources distributed by rapporteur's amendments to make the transfers, which are slated for around 19 billion reais in 2023 ($3.58 billion), more transparent.

ECONOMIC NEWS

French Livestock Farmers Criticize New E.U.-Chile Deal

French livestock farmers this week criticized the recently announced E.U.-Chile trade agreement, saying it allows Chile to trade without having to respect the same standards that bind European Union member states, Euractiv news agency reported Monday. On Dec. 9, Chile and the European Union agreed to a new "Advanced Framework Agreement" covering mainly raw material imports, as well as meat. "As always, agriculture and its most sensitive sectors have been the currency of the latest negotiations. The concessions are piling up agreement after agreement," France's main farmer's union, the FNSEA, said in a press release. Chilean exports to France could reach 9,000 metric per year for pork, 4,000 metric tons for lamb and mutton, and 2,000 metric tons for beef. Poultry would increase from 18,000 metric tons to nearly 40,000 per year, according to the report. The European Union is Chile's third-largest trade partner, comprising 12 percent of Chile's total trade in 2020. This month's agreement makes 99.9 percent of E.U. exports to Chile tariff free, which is expected to increase E.U. exports to Chile by up to 4.5 billion euros ($4.77 billion).

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ities against the state or the constitutional order. What the code defines as financing is extremely vague, which could potentially allow authorities to arbitrarily sanction civil society organizations, activists and independent journalists. Such restrictions are contrary to the right of association as they constitute an impediment for effective operation of any association. Lastly, the new code increased the number of offenses punishable by death from 20 to 24 crimes, despite Cuba having had a moratorium on its death penalty and has not applied it since 2003. This change represents a significant step backwards and is a direct violation of the right to life."

Carlos Lauría, journalist and former director of the Americas program at the Committee to Protect Journalists: "The new penal code has several provisions that could further limit and censor the work of Cuban independent journalists. One of the most restrictive provisions of the new penal code is Article 143, which relates to punishment for individuals or organizations receiving foreign funding. This provision sanctions any individual who, for themselves or on behalf of a non-governmental organization or other entity, provides, receives or has in their possession funds, material or financial resources from a local person or entity or a foreign state 'with the purpose of engaging in activities against the state or its constitutional order.' Violating this article can carry prison sentences ranging from four to 10 years. This measure would allow state authorities to muzzle the independent press that relies on this type of financing to carry out its activities. The new regulations will encourage more repression and censorship. In the new penal code, the crimes of spreading false news and sedition are preserved–which were used to punish some of the July 11 protesters with up to 30 years in prison–and that of enemy propaganda is renamed propaganda against the constitutional order. The 2021 protests by citizens calling for better living conditions in the face of a socio-economic crisis exacerbated by the pandemic, caused panic among the leaders of the Communist Party. The reason behind the enactment of the penal code is clear: crush social unrest by using tools that the government knows well; repression, persecution, jail and forced exile for dissenting voices."

Hunter Carter, partner and international practice co-leader at ArentFox Schiff: "Cuba's new Code of Families generated headlines because it granted same-sex couples civil marriage rights. Human rights defenders were criticized for appreciating this advance, while continuing calls for

> **"The new law comes as record numbers of Cubans are leaving the island by any means."**
>
> **— Hunter Carter**

Cuba to free political prisoners and protect freedoms of speech and association. The new penal code in Cuba, however, is nothing but disappointment. The new law comes as record numbers of Cubans are leaving the island by any means. Dramatic photos and videos portray the perilous journeys made on improvised embarkations. To deal with this, the new law creates even greater room for abuses and crackdowns on freedoms of expression and association. The new law relies on vague terms like 'public disorder,' 'resistance,' 'contempt' and 'insulting national symbols.' It doubles penalties from six months to a year in prison and/or a fine. With ever greater online communication and social media use, Cuba now condemns, with two years in prison, the spreading of 'hechos falsos,' fake news, but prosecutors and judges will define what is false. To be

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sure, Cuba does not enjoy an independent or impartial judiciary, making the new law arbitrary and dangerous. Does it include gossip on WhatsApp, or rumors on Twitter? The law also takes aim at independent journalists and civil society groups seeking to strengthen the rule of law. Article 143 bans the receipt or use of finances that 'fund activities against the Cuban state and its constitutional order,' equating international support for rights groups to a kind of treason against the constitutional order. Penalties are harsh: up to 10 years. Cuba is using Orwellian phrases to sell the law like 'modern' and 'inclusive,' but it is actually retrograde and dangerous."

Jaime Suchlicki, director at the Cuban Studies Institute: "Cuba's new penal code introduced in the island this December, increased the number of violations sanctioned with the death penalty to 24. The harsh new penal code follows the growth of opposition in Cuba and the massive demonstrations in July of last year. The Cuban regime fears a repetition of these demonstrations and is clamping down on the population in an attempt to solidify the regime and prevent new popular challenges. Article 120-1 of the new penal code increases to several years in jail the penalty for any demonstrations against the government. It also penalizes with up to 10 years in jail accepting financial contributions from foreign governments, organizations or individuals. This policy of fear introduced by the Cuban dictatorship hopes to cool down the popular opposition and the growing desire for change. A new generation born during the revolutionary period wants freedom and change. Cubans are living under an era similar to the one experienced by Eastern Europeans in the 1990s. That era led to the collapse of numerous communist regimes. Perhaps now is Cuba's time."

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The Advisor welcomes comments on its Q&A section. Readers can write editor Gene Kuleta.

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