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Cuba: Telecommunications Decree Curtails Free Speech

Latin American, US, EU Leaders Should Condemn New Restrictions on Internet



Cuban Rolando Remedios shows a photo of him being arrested during the July 11 protests on his mobile phone at his home in Havana, Cuba, on August 7, 2021. © 2021 Photo by YAMIL LAGE/AFP via Getty Images.

(Washington, DC) – A new decree and accompanying legislation announced by the [Cuban](#) government severely restricts freedom of expression online and threatens users’ privacy, Human Rights Watch said

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On August 17, 2021, the government made public [Decree-Law 35](#) and several accompanying norms regulating the use of telecommunications, including the internet and radio, and the government's response to "cybersecurity incidents." The decree, which has the stated purpose of "defending" the Cuban revolution, requires telecommunications providers to interrupt, suspend, or terminate their services when a user publishes information that is "fake" or affects "public morality" and the "respect of public order."

"The internet has created a rights revolution in Cuba, allowing people to communicate, report on abuses, and organize protests in ways that were virtually impossible," said [Juan Pappier](#), senior Americas researcher at Human Rights Watch. "Leaders in Latin America, the European Union, and the United States should not stay silent as the Cuban government restricts access to this critical tool for Cubans to exercise their rights."

Even before issuing these new regulations, the Cuban government [had already established abusive restrictions on communications and free speech online](#).

Under the new Decree-Law 35, telecommunications users have a duty to prevent the spreading of "fake news or reports" and are forbidden from using the services in ways that affect the "collective security," "general well-being," "public morality," or "respect of public order."

Telecommunications providers, including of internet and phone services and "online applications," are required to "interrupt," "suspend," or "terminate" their services when users allegedly violate these broadly defined duties. Providers may be fined or lose their license if they don't comply.

Under international human rights law, laws may only limit the rights to free speech and freedom of association when necessary and proportionate to achieve a legitimate goal, such as the protection of national security or the rights of others. Decree-Law 35 includes multiple overbroad provisions that are inconsistent with international human rights law and could be easily used to violate rights on a large scale as well as to target critics, Human Rights Watch said.

Decree-Law 35 also requires telecommunications providers to provide a broad range of information and services to government authorities. Under the decree, providers should grant public security institutions the "technical facilities and services they require" and give the Communications Ministry the "information that [the ministry] determines." These vague obligations may open the door to undue infringements on the right to privacy, Human Rights Watch said.

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from attack. But the new Cuban legislation instead treats online content as a potential threat to security, including “spreading fake news,” “slander that impacts the prestige of the country,” “inciting protests,” “promoting social indiscipline,” and undermining someone’s fame or self-esteem.”

Under the resolution, the authorities, apparently from the Communications, Interior, and Armed Forces ministries, are required to “prevent,” “detect,” “investigate,” and “mitigate” cybersecurity incidents, including by adopting measures for their “eradication.” Officials are required to prioritize responding to incidents considered of “high” or “very high” danger, such as “spreading fake news” or “promoting social indiscipline.”

The Cuban legislation is not clear on how so-called “cybersecurity incidents” will be “detected” and “eradicated.” But preventing and eradicating certain types of content would require pervasive monitoring and filters, which inevitably lead to overbroad censorship and surveillance, Human Rights Watch said.

Human Rights Watch has documented how [countries around the world have approved](#) similarly abusive “cybercrime” and “cybersecurity” legislation that unduly restrict rights and are being used to persecute journalists, human rights defenders, technologists, opposition politicians, and artists.

Among them, Russia introduced, in March 2020, [Article 207.1](#) into the criminal code for “public dissemination of knowingly false information in circumstances threatening the life and safety of citizens,” punishable with up to three years of liberty restriction. In October 2020, Nicaragua’s Congress [adopted a cybercrime law](#) that criminalizes “publication” or “dissemination” of “false” or “distorted” information on the internet that is “likely to spread anxiety, anguish or fear.” Saudi Arabia’s 2007 [Anti-Cybercrime law](#) criminalizes “producing something that harms public order, religious values, public morals, the sanctity of private life, or authoring, sending, or storing it via an information network.”

Internet is very expensive, making its cost prohibitive for many Cubans. Many telecommunication services are [exclusively offered](#) by the state-owned Telecommunications Company of Cuba S.A. (ETECSA) and are controlled by the Cuban government, which exercises its ability and legal mandate to restrict connectivity in ways that are inconsistent with international human rights norms.

The government [has repeatedly](#) imposed targeted and arbitrary restrictions on the internet against critics and dissidents, including as part of its [ongoing systematic abuses against independent artists and journalists](#). [Several](#) organizations have also reported countrywide internet outages, followed by

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In July 2019, [Decree-Law 370/2018](#) on the “informatization of society” took effect, prohibiting dissemination of information “contrary to the social interest, morals, good manners and integrity of people.” The authorities have used the law to [interrogate and fine journalists and critics](#) and confiscate their working materials.

“The Cuban government presents this legislation as a measure to strengthen cybersecurity in the face of threats, but it is essentially trying to secure itself from criticism and dissent,” Pappier said.



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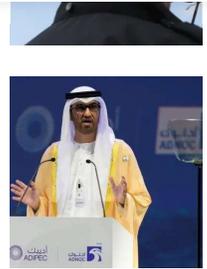


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