

## **Citizen participation in the Cuban State**

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Democratic republicanism has been the banner of major events like the French Revolution or the Spanish Republic, and now inspires changes underway in Venezuela, Bolivia and Ecuador. The socialist movement, like Jacobinism, is part of this republican heritage and its struggles for democracy and the political concept of fraternity: reciprocity in equality is freedom. Antidemocratic republicanism based on the exclusion of indigenous, black and mestizo majorities, as well as the free poor, was, in contrast, what was established in Latin American oligarchic republics after independence from Spain. That was the character of the regime in Cuba between 1902 and 1933. The cause of the country's sordid reputation lies in its oligarchic and exclusionary nature, not in its republican character. The establishment of the Republic was indeed the great conquest of the struggles waged throughout the nineteenth century in the country.

Republican ideology thus presents conflicting images on the Island because of its development in the twentieth century. The act of calling the dictatorship from 1902 to 1959 a "Republic" and calling the regime that followed a "Revolution" captures the problem, but does not form part of the solution. The form of government that regulates the current Constitution is also a Republic. Now, the resolute progress towards new and redefined manifestations of republicanism is an essential aspect—one that cannot be put off—of the democratization of Cuban politics. In this process promoting civic participation as a Republican means is central in collectively shaping the social order and placing government action under citizen control. For that reason, I study the institutional design of civic participation in the Cuban state, and its

potential to promote greater participation. Recuperating democratic republicanism as a reference for the political culture of Cuba is what motivates this analysis.

### **The republican conception of participation**

The democratic republicanism links property and freedom to self-reliance and self-government: it posits the absence of domination as the key to coexistence of free and equal beings. The republican system must be the basis of democratic growth, meaning the institutional arrangement that seeks to reconcile freedom with equality through the universalization of citizenship as a set of interdependent rights.

This republicanism shares two interrelated theses with regards republican freedom:

- Republican freedom means building independence. The program of universal freedom is the battle against the particularism that arises from monopolistic exercise of property rights against the control of a particular group over the conditions of their personal and social life.
- Republican freedom means building autonomy. Relying on a power and/or right regulated by someone else, over which one has no say or control, returns citizens to the status of subjects.

Both objectives have to be combined in order to "not have to ask anyone's permission to live," in order to avoid "dependence" in a state of subordination. The purpose is the eradication of all forms of domination that take place both in the private sphere and the public sphere. In this way, their implementation requires

Do not only tackle the *imperium* – the relationships of domination in state actions – but also, especially, the *dominium*, that is, the relationships of domination born of dependency that are rooted in the civil world and that in good dosages are also the source of the *imperium*.<sup>1</sup>

The Republican way to fight the monopoly over property is to give citizens ownership of their living and working conditions: involve them in setting such conditions and allow control them. In this sense, the policy is considered one of common property owned by the citizenry.

Participation in self-government is a form of self-definition of citizenship and not just a way to protect individual interests. Freedom rests on obeying the laws one has made for oneself. Participation becomes the Republican justification for democracy. State power to issue binding decisions is democratically analogous to the ability of citizens to participate in these decisions, looking for improvement. Participation advocates instituting character of popular sovereignty and representation for this structure in the form of a mandate; recognizes the rights of all citizens to develop politics, to participate in its management and control your own destiny. The government should be subject to politics and treated as an instrument that is meant to execute administrative acts, and state power should be subject to popular sovereignty, cutting back the sources of its own power.

Consequently, there is no opposition between direct participation and controlled representation if the Republican goal continues to be one of preserving sovereignty over the government. According to the Cuban state's revolutionary discourse, the latter is the line adopted by the institutional system of civic participation in the State.

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<sup>1</sup> David Casassas, «Sociologías de la elección y nociones de libertad: la renta básica como proyecto republicano para sociedades de mercado», *Isegoría*, n. 33, [MADRID], 2005, p. 238.

## Direct participation of citizens in the State

After the institutionalization that took place in 1976, and the creation of the network of organizations of People's Power, the state-structure has been one in which democracy has been codified as combining direct participation with political representation in favor of the former.

According to Ricardo Alarcón:

Like any organization on the scale of a nation-state, ours also has a representative character, which is not limited to formal representation, in appearance, but instead seeks the direct participation of the people in the representative bodies. It incorporates as much as possible the mechanisms and forms of direct democracy in character structures that are inevitably representative.<sup>2</sup>

Participation occupies a fundamental value. The representation finds itself in second place: where the first doesn't quite reach, the 'inevitable' second resource appears. The virtue and the efficiency of the practical implementation of this model will be proportional with the participation of most people in the channels enabled, which should be as inclusive as possible. However, the mechanisms of direct participation enshrined in text in the Cuban Constitution are limited when compared with those established by the New Latin American Constitutionalism (NCL).<sup>3</sup>

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<sup>2</sup> Pascual Serrano, "The Cuban democracy is not exhausted by the formal representation, but instead, incorporates mechanisms and forms of direct democracy." (interview with Ricardo Alarcon de Quesada), *Rebellion*, December 6, 2003, available at [www.rebellion.org/noticia.php?id=53](http://www.rebellion.org/noticia.php?id=53).

<sup>3</sup> The origin of NCL can be found in the appearance of the constitutions of Brazil (1988) and Colombia (1991). However, the label of NCL is used only to refer to the constitutions of Venezuela (1999), Ecuador (2008) and Bolivia (2009) on the grounds that the first two texts continue advancing, but with differences. To broaden this point, see Rubén Martínez Dalmau, "Constitutionalism without parents and the draft constitution of Ecuador." *Rebellion*, September 9, 2008, available at [www.rebellion.org/noticia.php?id=72367](http://www.rebellion.org/noticia.php?id=72367); and Roberto Gargarella and Christian Courtis, *The new Latin American constitutionalism: promises and questionings*. ECLAC, Santiago de Chile, 2009 This latest wave of NCL is relevant for Cuba because it advocates a "socialism" that seeks social change through a process of proclamation of the "constitutional state of rights", which means a break with the socialist tradition of the 20<sup>th</sup> century and the adoption of the original democratic republican perspective, all of which are in the permanent context of belligerence—legal and illegal— from the interior and through the exterior of these countries against the processes of change underway.

The NCL recognizes the right to participate in the development, implementation and monitoring of the state budget, to demand hearings, oversight committees, consultations, open meetings, advisory and observational advice, and it also regulates figures such as the “empty chair”<sup>4</sup>; supports all forms of social organization, instituted Citizen Power or the Council of citizen participation, and dictates regulatory laws regarding participation rights as enforceable rights, even if they have not been given the laws governing the exercise; provides for the popular, legislative and constitutional initiative or approving, advisory, recall and repeal referendums and regulates access to the courts, direct participation of the people in the appointment of judges, the possibility of direct objection to the nomination of candidates for judges of the Supreme Court and the election of judges to the Constitutional Court.

The Cuban constitutional order enshrined as forms of direct civic participation the following: participation in periodic elections, popular referendums and through legislative initiatives.<sup>5</sup> Their analysis reveals limitations in the execution.

### **The electoral system**

The reform of 1992 provided for voluntary, free, direct and secret voting, in order to integrate all the assemblies that had maintained their unicameral traits and the absence of parliamentary minorities. The power to nominate candidates for the provinces and the nation continued to be done by "Candidate Nomination Committees." For municipal decisions, the custom had become direct nomination in neighborhood assemblies. The Communist Party of Cuba (PCC) was not considered subject to this electoral process, since they did not nominate

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<sup>4</sup> “The sessions of decentralized autonomous governments shall be public, and in them, there will be an empty chair, which shall occupy a citizen representative to serve as a function of the topics to be discussed, in order to participate in discussion and decision-making.” (Constitution of the Republic of Ecuador, 2008, Article 101).

<sup>5</sup> *Constitución de la República de Cuba* (1976, reformada en 1992 y 2002), Editora del Ministerio de Justicia, La Habana, 2002, artículos 131 y 88. Henceforth, it should be entered in the article text.

candidates.

General elections are held every five years to elect delegates to municipal and provincial assemblies as well as representatives to the National Assembly of People's Power (ANPP). In the interim, partial, every two and a half years, there are partial elections in order to select and update the municipal assemblies. These all occur without electoral campaigns. As for the municipal system, it is organized in single-member constituencies (one candidate is elected from at least two candidates with a maximum of eight candidates on the ballot), divided into areas of nomination; while the provincial and national electoral ballots – have as many names as positions to elect – and are a "closed but not locked" list, in which you can vote for one, several or all of the candidates, but you cannot add others. The system is governed by a rule of proportional representation. The candidates who are elected correspond to a specific number of the population, which is a system that is employed internationally to prevent tampering and also prevents the creation of constituencies.

In short, the system regulates a semi-competitive electoral process for municipalities and a non-competitive electoral process for the provinces and the nation.

In theory, a semi-competitive electoral system has the following functions: legitimization of existing power structures, a relaxation of politics inward, projecting an image outward, the organizing (and partial integration) of opposing forces, and structural adjustment of power in order to strengthen the system. Meanwhile, having uncompetitive elections is responsible for mobilizing all social forces, to explain to the population the criteria of state policy and strengthen the moral-political unity of the people.<sup>6</sup>

Most of these functions are verified in the behavior of the Cuban electoral system, which

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<sup>6</sup> *Diccionario electoral*, Centro Interamericano de Asesoría y Promoción Electoral (CAPEL), San José de Costa Rica, 1988, p. 260.

has convened regular elections, has maintained the transparency of the count and high levels of electoral participation and guarantees: the prohibition of official support for individual candidates and the criminalization of illicit electoral behavior; although it is missing important electoral guarantees, such as the existence of an independent electoral authority and of a competent independent body which would have exclusive jurisdiction over these matters.

From 1976 to 2010, voter turnout has ranged between 95.2% and 95.9%. These figures have traditionally been touted as an example of "support to our political system and a strong response of Cubans with suffrage to media campaigns orchestrated by the government of the United States, the European Union and their lackeys."<sup>7</sup>

The electoral system relies on high voter turnout and positive responses from voters to official requests for "united vote" – for all candidates<sup>8</sup> – in addition to the limited presence of invalid and blank ballots, which during this period only accounts for less than 7%<sup>9</sup>. The elections have served as "virtual" plebiscites on the continuity of the project<sup>10</sup> based on the historical legitimacy of revolutionary power and leadership of Fidel Castro, the at least partial acceptance the citizenry of the existing institutions, to defend the Revolution, and for various degrees of political and social pressure related to the act of voting.<sup>11</sup>

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<sup>7</sup> [NO APARECE, EL AUTOR SERÍA GRANMA], "95,86% of the electorate voted," *Granma*, La Habana, 30 de abril de 2010, disponible en [www.granma.cu/espanol/2010/abril/vier30/voto.html](http://www.granma.cu/espanol/2010/abril/vier30/voto.html).

<sup>8</sup> The necessity, from the technical point of view, to vote for all candidates running on the ballot means that candidates are saved from getting less than 50% of the vote.

<sup>9</sup> In the 1995 midterm elections, blank ballots amounted to 4.3% and 7% were canceled, for a total of 11.3%, a record high. The blank ballots deposited in the midterm elections of 2010 represented 4.59% and 4.3% canceled, for a total of 8.89%, equivalent to 723,120 voters—the highest figure ever for this item since the partial election of 1995—, which wielded the political opposition as a sign of "increasing discontent on the island." (Juan Tamayo, "Dissidents believe that elections reflect discontent in Cuba," *El Nuevo Herald*, Miami, April 28, 2010). If you add 4.14% abstention, it results in 1,077,444 people (12.58% of the electorate) who did not vote according to the official roll.

<sup>10</sup> Roberto. Colom Gili "All choices are valid: elections and ranking the plebiscite," *Elections in Cuba? farce or democracy?* Ocean Press, Melbourne, 1993, p. 56.

<sup>11</sup> People consulted for this study said they were solicited at homes to vote between 12:30 am and 1:00 pm—the polling station closes at 6:00 pm—tasked by neighbors, members of the Committee of Defense of the Revolution (CDR), or activists of the electoral college. Others report that sometimes they receive personal names, depending on

At the same time, the system leaves open several problems: the programs of local, provincial and national government are not defined – the candidates for election run without a platform – through an electoral process that does not diminish political power, but the seats up for election do not encompass the entire structure of political leadership<sup>12</sup>; there is no proper accounting for the preferences of citizens through voting<sup>13</sup> and the votes of the citizens who have emigrated and are outside of the country at the time are not taken into account.<sup>14</sup>

## Referendums

The Cuban Constitution states that it is an attribution of the ANPP calling for the holding of referendums on two issues: matters that are considered critical and constitutional reforms, when the proposed reforms cannot be carried out by the ANPP (Art. 75, subsection u).

The record of reform is a principle of the rule of law: constitutional supremacy. The guarantee of constitutional rigidity requires that any amendment to the Law of laws must follow an extraordinary process in comparison to the approval or change of ordinary legislation.

The ANPP is the only body that can amend the Constitution, in whole or in part, by resolution adopted by no less than two-thirds of its membership and, if the renovation is complete or it refers to the integration and powers of that body or its State Council, or the rights

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who's doing it: for example, Operation Tun Tun, developed by schoolkids. Raimundo López, “A Different Sunday,” *Elections in Cuba? farce or democracy?*, ob. cit., p. 52. The people may fear, real or unfounded, some kind of negative political consequences for their social performance by not going to vote. Certainly for many jobs, or the allocation of certain resources, “verification” is required, in their places of residence, of political behavior.

<sup>12</sup> Government structures are chosen, while the director of the PCC, which governs the state, is not subject to popular vote—that which is explained by the fact that they must be elected by its members, but leads to a distortion of the representation. “I will vote again when they let me choose the municipal secretary of the Communist Party, who is the person that really has power and can change things,” said a woman who chose to abstain [...] in this election. Fernando Ravsberg “Cuban voted, no changes are expected,” *Letters from Cuba*, BBC, Havana, April 26, 2010.

<sup>13</sup> The choices expressed by blank and spoiled ballots rejected are underestimated and irrelevant to the results with respect to the generation of the profile of the political system.

<sup>14</sup> Election law requires that in order to vote, the individual must have had residence in the country for two years prior to the election date. To be elected, five years are required.



and duties enshrined in the Constitution also require additionally ratification by popular referendum (Art. 137).

In 1992 over 50% of the contents of the articles of 1976 were modified, which had been subject to discussion during an Appeal to the Fourth Congress of the CCP (1990). For the reform, the ANPP asserted that those individuals who are specifically protected by the Constitution were not affected through the referendum and approved by itself.

The regulations flag a problem: the Constitution transfers sovereignty from the people to the Assembly, which alone can amend the Constitution. The ANPP is considered as the constituent (1992, § 3), when the constituents should be the citizens. The Constitution is not meant as a binding mandate of the government to the people, but rather, delegates the political power to the government as the only agent that can make change. The sovereign could only recover the constituent power when the referendum is deemed as necessary by the ANPP, which also is the only subject entitled to interpret the constitutionality of its own actions (Art.75, c).

The transfer of sovereignty can be avoided with the legitimacy of other subjects – for example, a number of qualified citizens – capable of activating the constitutional referendum; with the elevation of the requirements that should be met by the ANPP to reform the Constitution itself, and with the requirement of prior consultation and/or ratification by referendum of laws.

The power to convene the ANPP – executive and legislative referendums – on various matters of constitutional reform has not been exercised since 1976. In reality, it has never been done under their mandate, the only one that was successful was the actual approval process of the Constitution.<sup>15</sup>

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<sup>15</sup> La consulta «compromete» moral y políticamente, pero el plebiscito/referendo “obliga” a los poderes públicos a aceptar su resultado. The institutional discourse makes indiscriminate use of the terms referendum and plebiscite. The second does not affect acts of a legislative nature, it only effects factual issues (political events, government measures). Instead, the referendum gives rise to a legal decision (laws, administrative acts, constitutional reform).

The regulation of the referendum has other limitations. If only the ANPP could cover these matters of national character, and not become mechanisms of direct democracy in provinces, municipalities, people's councils and districts, as is true in the New Latin American Constitutionalism (NCL), which allows referendums in all areas of public decision.

Consequently, the referendum is not an active direct exercise of power in the Cuban institutional design. To facilitate its use, it is necessary to expand the number of individuals authorized to summon a qualified number of citizens and a greater number of public bodies, and in doing so, expand the scope of validity for the decisions that come from being convened. The procedure followed by the NCL in this field bets on the activation of the constituent power of citizenship, in the first instance, before any constitutional change.

### **Legislative initiative**

According to the Cuban Constitution the representatives to the ANPP and its committees, the State Council, the Cabinet, the committees of the ANPP, the National Committee of the Confederation of Workers of Cuba (CTC) and the national leadership of the other social and mass organizations (OSM) may propose laws exercising the legislative initiative power, as can the Supreme Court of the People in matters related to the administration of justice, the Attorney General of the Republic in matters for which they are responsible and lastly, the citizens.

The legislative initiative qualifies as a direct mechanism of power in favor of citizenship if it is promoted by the OSM and by the citizens of the country. In order for the latter to come to

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The Constitution does not mention the plebiscite, but could be used under the coverage of the referendum. Both cases are different resources to the elections. As part of them, people are elected who will make decisions and the plebiscite/referendum is pronounced in the decisions themselves. The plebiscite is not synonymous with a “popular consultation” mechanism widely used in Cuban politics. Through the consultation there is a moral and political “promise” by which the plebiscite/referendum “forces” the government to accept its outcome.

fruition, no less than ten thousand voters must take part in the process (Art. 88).

The regulation of the ANPP establishes requirements for the exercise of this right.<sup>16</sup> Since 1976, an initiative proposed by citizens has only ever been attempted once in 2002. Opposition leaders, with international support, used this platform to present the ANPP with a proposal ("Project Varela ") that did not meet the aforementioned requirements.<sup>17</sup>

Legislative initiatives proposed by the national leadership of OSM are regularly presented, for example, the Federation of Cuban Women (FMC) proposed a project known as the Family Code, and the National Association of Small Farmers (ANAP) has proposed agricultural regulations. Its use has demonstrated some contradictions: the legislative initiatives are invalid on constitutional issues, but the national proposals by OSM in 2002 proposed constitutional reform.

The NCL has expanded and facilitated the field of "popular initiatives." Exercised to propose the creation, amendment or repeal of rules of law before the Legislative Branch or any other competent regulatory body, it must be supported by a number no less than 0.20% and 5% of those whose names appear in the election registry of the relevant jurisdiction. Popular initiative proponents will participate through representatives, in the discussion of the project in the corresponding legislative body, which has a period of one hundred and eighty days to discuss

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<sup>16</sup> A foundation should be provided to express relationships that are the subject of legal regulation, its objectives and the economic, political and social budgets recommending its approval; the matters that are regulated and the solutions proposed, indicating the amendments made in the legislation, with legal provisions that are ordered or systematized and the history of the issue; foreseeable economic consequences of implementing the proposed legal provision; the enumeration of the legal provisions of equal or lower rank that are modified, supplemented or repealed; the regulatory status of the substance of this provision; results conducted with the coordination of legislative bodies and agencies that must comply with or enforce the proposed regulations and the conditions and mechanisms necessary to ensure their applicability, effectiveness, compliance and control. If it is a proposal of ten thousand citizens, and in addition to the rationale described above, one must provide a sworn affidavit that has been notarized, in which personal identities are confirmed, as in the ability of each signatory to cast their votes. Véase *Reglamento de la ANPP*, [DISPONIBLE EN EL SITIO [HTTP://WWW.PARLAMENTOCUBANO.CU](http://www.parlamentocubano.cu), EN LA DIRECCIÓN: [HTTP://WWW.PARLAMENTOCUBANO.CU/INDEX.PHP?OPTION=COM\\_CONTENT&VIEW=ARTICLE&ID=55&ITEMID=74](http://www.parlamentocubano.cu/index.php?option=com_content&view=article&id=55&Itemid=74)].

<sup>17</sup> Véase Manuel Alberto Ramy, «Proyecto Varela, viabilidad jurídica», disponible en [www.progresoweekly.com/RPW\\_archives/RPWeekly070402/vecinosRamyVarela070402.htm](http://www.progresoweekly.com/RPW_archives/RPWeekly070402/vecinosRamyVarela070402.htm)

the proposal; otherwise, it will take effect.<sup>18</sup>

In Cuba, to make use of this avenue it is necessary to build a legal and political framework to create the right legislative environment and to ensure that requirements are met, guaranteeing the independent agreement of citizens and access to the media in order to disseminate information and gain supporters. Allowing the proposal or repeal of legislative acts, at all levels of the state from citizens would create a mechanism of disagreement against the sovereign government.

### **Indirect participation of citizens in the State: the People's Power**

As explained, the constitutional mechanisms of direct participation under the Cuban Constitution have not been developed. Therefore, the representative process is preeminent over direct participation, contrary to the stated aims of the model. Representation is thus the most widely used form of participation in institutional decision-making mechanisms of the state. From the democratic republican perspective, there are two dimensions: the ability both to ensure universal access to the state as well as the goal of controlling the representative. The Constitution considers the processes of political representation to be *indirect* participation, which takes place through the system of Popular Power legislatures in three territorial levels: municipalities, provinces and the nation.

### **Nomination of candidates for the State**

The process of nominating candidates should ensure the right of all citizens to intervene, by themselves or through representatives, in the direction of the State (Art. 131). At the base level –

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<sup>18</sup> *Constitución de la República de Ecuador*, ob. cit., Art. 103.

a municipal district - is capable of doing so, but this potential avenue is rarely used by the citizenry. The available figures indicate, on the one hand, that the number of candidates is the same as the legal minimum (two per district), and, second, that there is a high degree of overlap in the candidates proposed in the nomination assemblies. 19th The causes can be found in the presence of elements that discourage participation, produced by the type of authority that owns the delegate and the problems faced in exercising.

In the middle and upper levels of the system – at the level of the provinces and the country—, the role of nominating candidates is filled by the Commission for Candidacy (CC), which ensures broad access to the state apparatus, but not the possibility of universal access. This fact leads to distortions: under-representation or non-representation of groups with self-identified political beliefs, despite the system being committed to the value of maximum inclusion, enshrined in the Constitution.

The institutional discourse itself shows this limitation of the system: to prove its democratic-ness – as equal political rights for all citizens – affirms that the electoral process would allow the nomination and election of any candidate, even opponents of state policy.<sup>19</sup> This would require only that "anyone" be nominated and that a vote occurs. This criteria, which applies to the municipal space, does not extend to other levels, in which the candidates are proposed by the department of the CC.

In practice, the debate with revolutionary sectors has always had different and conflicting positions. However, this diversity is not channeled through the electoral process: it does not get expressed in proposed legislation or the election of candidates who hold different positions found

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<sup>19</sup> Las cifras de no más de dos candidatos por circunscripción son cercanas al promedio con que cuentan estos indicadores en los procesos electorarios posteriores a 1992. Véase “Elecciones 2005”, *Anuario Estadístico de Cuba*, Oficina Nacional de Estadísticas, La Habana, 2005 y 2008. The figures of districts with no more than two candidates per district are close to the average available to these indicators in the subsequent 1992 election processes.

within the legal framework; it also does not get expressed through representation as part of the deliberation of assemblies once elected.

Therefore, the CC would not be effectively meeting its goal of ensuring universal access to the State. They should operate with the legal status of “citizens,” used by the Constitution and the Electoral Law, without distinction of an ideological nature. The absence of such a distinction is a democratic necessity: reclaiming the principle of political equality. The proposals of the CC integrate a universal organism, the State, which belongs to all citizens, and not a particular political body, not a selective political organism by nature, like a political party.<sup>20</sup>

It is not useful to compare this reasoning with the exclusionary behavior of liberal electoral systems— as does the Cuban institutional discourse, which imagines representation as a market space. Liberal democracy is elitist in its essence: it does not promise that all citizens will have access to the State, but instead that their interests will be handled democratically, meaning that, their representatives should take them into account. It is perhaps more apt to compare the dilemma in question with other experiences that share a similar type of representation, as in the case of Venezuela:

The people’s power cannot be dyed the color of a particular political party or a religious group, the people’s power [...] must be of many colors, must be like the rainbow and must accommodate each and every citizen of Venezuela. They are the people who inhabit a community, a workplace or study, who should democratically elect their spokespeople and these individuals will naturally represent different political and ideological positions, depending on the strength that those positions have in their respective communities. That is the idea and that is

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<sup>20</sup> Véanse Roberto Gili Colom, ob. cit., y Pascual Serrano, ob. cit.

what has been applied correctly as part of the Law of Communal Councils.<sup>21</sup>

In Cuba, the truth of the matter is that there are different projections: the income streams of legal opinions, but different from those of the state/government, to the place of state decision-making; the eligibility or appointment of public office; the under-representation of disfavored groups; and the potential of the criteria on which the representation is founded to provide a channel of universal intervention in the State.

The issue of universal access to the State is not limited, as is usually argued, to the conflict with the opposition funded by the United States. As the institutional design disqualifies, legally and legitimately, those who seek to access the State through the support of foreign government agencies, which is a broader problem: official representation from throughout the political spectrum, which even if they do so critically, still accept the established legal order.

There is similar tension regarding universal representation before the State in the practice of appointing staff as there is in the election of representatives. Public officials entrusted to administer the election processes do not cover the entire civil service structure of state power. The electoral process directly includes the positions of delegates and representatives, and indirectly includes the positions of Head of State and Government and chairman of the boards of provincial and municipal administrations, which although they are not directly elected by the people, they are elected by representatives and delegates in their legislative bodies.

However, the process leaves out the large number of field elective state offices, which are

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<sup>21</sup> The institutional design embodies this indeterminacy: separating the State from the Party, prohibiting the former to nominate candidates, but places the OSM, responsible for doing so, under the subordination of the party. A democratic radicalization of this element means that nominating entities would not be subordinate to one or the other, and would regulate, for instance, the autonomy of organizations in a renewed democratic understanding of the role of the State in socialism.

"appointed" or "designated" as the policies of all the Councils and Institutes as well as the education system, university and business systems of the country, which perform state government functions. Functional rights are not universally recognized – some call them "civil service" – (1992 art. 43) because, as it is implemented, the designation practice does not ensure: a) equal opportunities to applicants for public office (there could be, for example, the existence of a public competition to government jobs with the state, with the obligation to appoint the person who is “best for the job,” which would include criteria regarding equality), b) selection criteria could claim, as a consequence of the above, that *only merits and capabilities* like the requirements which should be used to elect or appoint a public official and c) a selection process that supposes the election of a public official by the grassroots citizenry (a territory or a labor collective, depending on the scope of the decision), or the ability to intervene in their nomination. Moreover, the appointment process, as implemented, prioritizes accountability to the “top” only, which appoints and replaces and then supersedes the accountability to their grassroots supporters.

The Cuban government has maintained policies to promote underrepresented groups, through different mechanisms and actors. The OSM has played a pivotal role in the continuity of these strategies; however, the identity politics within which they work reflect a homogeneous social structure, maintained for three decades, and less one “heterogeneous” structure, such as the one that penetrated Cuba after the 90s. However, a context of social differentiation produces individual subject to identity politics and multiple loyalties, incorporating new and pluralized identity-related demands.

This diversity claims to be processed from a paradigm articulation of articulating differences, recognizing social and civic identities in flux, and generating political consequences:



recognizing the right of participation to self-identified social groups and evaluate if they are subjected to conditions of discrimination and not being favored as it relates to political representation. There are indications that policies aimed at certain social groups have been expressed more in mid-level and the highest levels rather than in the processes subject to the masses, as occurs with women, who are underrepresented in local government.

The precise formulation of public policies promoting restarted disadvantaged groups, who assert the constitutional principle of equality under the following republican principle: in any case the political demands of identity must be out of democratic decision-making processes. At the same time, we must think of strategies to avoid the closure of these policies, and enable their interests to be presented as universal interests in the public sphere.

In the work of the candidacy commissions the aforementioned could be implemented as follows: a) the pluralization, regarding new criteria of the ideological basis of representation, and b) the modification of their institutional base.

The Cuban institutional discourse proposes voting for the “best and brightest.” The information provided on the candidates meant to guide the choice is a brief record (one page) or description of their performance in the student/labor and political-institutional spheres. This ideological basis in order to participate as a representative excludes any other opinion, or position, on dimensions of skin pigmentation, age, health status, income, ideology, sexual orientation, several of which play a role in the social performance of eligible individuals and generates diverse political behaviors. The criteria is limited in order to make way for the demands of a decolonized citizenship, defending perfect political equality from a position of difference. Pluralizing the ideological basis of representation helps to loosen the social relations of domination based on class, race, gender, age, cultural differences, etc., within the existing

society. The institutional discourse argues that “talking” about these dimensions is to “campaign” and banning it would be an advantage because it prevents demagoguery. However, demagoguery arises, in fact, from the lack of control over the representative.

Here lies one of the fundamental impulses of the contemporary discussion of republican citizenship, which includes “two issues [...] that of individual rights and that of collective identities, the question of a just society and a question of individuals belonging to a group.<sup>22</sup>” In this horizon, it may be useful to establish minimum rules of access to the state apparatus in favor of socially disadvantaged groups, and regulate the different forms that society is organized, which have direct channels to direct demands on the state and to be able to see them, represented before the respective state deliberative body.

On the other hand, the territorial criteria as a basis of representation –electing for the constituency of a municipality –is effective in maintaining proximity between the voter and the elected and encourages processes of accountability and recall, but also has limitations: a) “it makes it conditional that people are represented primarily as consumers, in a passive manner and are not as themselves producers”,<sup>23</sup> and b) the mandate given to candidates cannot be on a scale or outside of the content of their purview in their specific territory, and permits social groups with no “local” interests to be left without any institutional channels of representation to place their ideas on the agenda at the local, regional, national and international level.

Therefore, it would be useful to complement institutional principles of representation, with the goal of pluralizing the ways in which different interests can find complex representation in the state. For example, you could incorporate the criteria of interest representation, which considers the professional appropriateness or class membership and does not replace or eliminate

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<sup>22</sup> Martha Harnecker, «Participación popular y socialismo en Venezuela», en Camila Piñeiro Harnecker, comp., *Socialismo y democracia participativa en Venezuela* (en prensa).

<sup>23</sup> Ángel Rivero, «Tres espacios de la ciudadanía», en *Isegoría*, n. 24, [MADRID], 2001, p. 52.

political representation. The debate over this type of representation has been internationally reanalyzed through neocorporatism (democratic or statist) that attracts states that are strongly influenced by the idea of the welfare state or common good.<sup>24</sup>

### **The voter-representative relationship: the nature of the “mandate”**

The Constitution provides that delegates fulfill the “mandate” given to them by the voters, in the interest of the whole community. The term “mandate” is used in the legal text in its chronological sense: the period of performance of the function.<sup>25</sup> However, the institutional discourse uses it as “trust instilled in the representative” within the meaning of fiduciary agency. Delegates are not paid by this feature and must still find work elsewhere.

The analysis of the practices developed on this basis demonstrates three branches: a) there is no mandate from the voter to the elected, b) voters deliver a petition to the delegate that is administrative in nature and not political, and c) the delegate is an agent of the State. With the verification of these theses, it is reaffirmed that the institutional design transfers sovereignty from the citizenry to the government.

The delegate is linked to the voters through hearings, dissemination of information and town hall meetings, at which time demands are presented that qualify as “approaches” and it is required that the elected respond to each voter, and to the town hall meetings. His work is measured by the quantity and quality of their explanations and/or solutions offered. Now, during these interactions, voters gather opinions, complaints and suggestions, but they are not making decisions.<sup>26</sup>

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<sup>24</sup> Miguel Limia, «Participación popular en la sociedad socialista cubana: tendencias de su desarrollo ulterior», en Haroldo Dilla, comp., *La participación en Cuba y los retos del futuro*, CEA, La Habana, 1996, pp. 72-3.

<sup>25</sup> Norberto Bobbio, *Teoría general de la política*, Trotta, Madrid, 2003, p. 491.

<sup>26</sup> The Electoral Act uses it as well at any time (Arts. 11, 94, 146, 152, 153, 155 and 156). This is an example: “The

The mandate given is a request for a petition of an administrative nature: ensuring the quality of the performance of institutions providing services in the locality.<sup>27</sup> This work philosophy, which understands the delegates to be agencies of practical problem-solving, an expression of democratic control: the responsibility of the popular power to the needs of everyday life. The criteria is one of the elements of the “care economy,”<sup>28</sup> which does not reflect the efficiency or profitability of providing essential services.<sup>29</sup>

The obligation incumbent on the delegate is, as regulated by the Constitution, “to present to the Assembly and the Administration of the town, the views, needs and difficulties expressed by their electors” and provide answers about the steps that need to be taken in order to meet the demands of your constituents. The delegate is an agent who acts on behalf of the voter in two areas: in the control and supervision of the activities of administrative agencies, and in the participation of the electorate in state representative bodies.

Under this logic, the delegates are “called on” to improve the “administration”, but are not charged with the “responsibility” of approving certain “policies”: the delegate is not an agent of the voter to shape the political order of his constituency, but instead, is an agent of the State

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exercise of the electing leadership within the legislative bodies of Popular Power will be equal to the term for which members were elected as members of these bodies.”

<sup>27</sup> The proposals are shown exactly as they are cast by the voters—whose names are listed in the report issued—and it is not sufficiently precise to vote for them in the assembly because they would then be considered binding. Here are some testimonials collected for this research: “Although the greatest authority comes from the voters, *you cannot be left to the mercy of decisions made by the voters*, on the off chance you cannot provide a solution to the problem being addressed; *More than a decision, more than a commitment, the word is a promise and our work is policy*. The point is that you should at least give voters a response.” (Emphasis mine. JCG)

<sup>28</sup> This refers to a complaint and response that was collected between 2004 and 2006 in a Havana district.

Complaint: “The water company broke the street in front of the building to make repairs, but in doing so, threw the mixture above and a leak has been left fully open, and when it rains the water gets stuck.” Answer (from a directive of the water company), “The place was visited and it was found that the work was done by the ‘micro social’ and the rubble (concrete) was left by them, and this was confirmed by a neighbor in the building. On behalf of our company, this approach is not appropriate.”

<sup>29</sup> Véase Corina Rodríguez Enríquez, «Economía del cuidado, equidad de género y nuevo orden económico internacional», en *Del Sur hacia el Norte: Economía política del orden económico internacional emergente*, CLACSO, Buenos Aires, 2007.

who contributes to solving community problems, with the support of the State.

Institutional design establishes an obligation to delegate: following directives from higher bodies, given that they regulate that “the provisions of higher state bodies must be followed by the lower bodies”; and that “the lower state bodies are responsible to the higher bodies and they are accountable for their management” (Article 68, paragraphs d and e). Then, the State is the “principal” in this agency relationship. The Constitution regulates:

Representatives to the National Assembly of the People's Power have the duty to develop *their work in the best interest of the people*, keep in touch with their constituents, listen to their problems, suggestions and criticism, and *explain to them the policies of the State* . That way they will be held accountable for the fulfillment of their duties, as is established by the law. (Art. 84, emphasis added. JCG)

The terms used are accurate: the “state policy” which is “explained” to voters, is not made by them, and is governed by the principle of “benefitting the community.” The first ensures the vertical subordination of the state system – the higher legislative bodies supervise the lower bodies – and the second ensures the obligation of accountability and the possibility of a recall. It is expected that the role of “principal” in the agency relationship established by the State with the delegate cannot be exercised alone by the first. It should be developed with the “incorporation of the organizations and social activity of the masses” (Section 68, subsection ch).

The underlying concern of the analysis of NCL, which proposes building a network of “local assemblies of national democracy,” such as a space in which citizens can continuously exercise their right to participate in government not only as it relates to local and municipal

issues, but instead, regarding national or multi-country issues, while regulating political representation, in property, as well as a mandate.

### **Delegate Status: its power**

The delegate fundamentally counts on a broad degree of legal powers. It is considered the highest state authority in their area. However, the government does not exercise, which combined with their limited ability to decide issues related to local resources, limits the exercise of their powers.

The Municipal Assembly of the People's Power (AMPP), composed of district delegates, is constitutionally granted powers of the State and government. The institutional discourse affirms that the delegate fulfills state oversight functions and has control over administrative bodies; but the voter has voted for a delegate in both instances. The confusion between the State and the government appears initially in the Constitution. The second term is employed with two different meanings: the general government of the nation (legislative bodies of state and government without distinction); and the Administration in a strict sense (government agencies that are explicitly part of government). This political meaning of this content is the concentration of powers— provides confusion between the functions of the legislative bodies and the possibility of usurpation of functions from one to another.<sup>30</sup> The job profile of delegates is built on that indeterminacy.

The functions assigned to the popular delegates are limited power to exercise both political” – taking part in the creation of public policy –as well as “administration,”

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<sup>30</sup> The issues of the quality of these services, and the existing alternatives for governance, are not under investigation, and neither is the absence of key elements of the care economy in the Cuban system, for example, the state not recognizing the economic value of housework as a source of wealth and therefore it is not quantified in public accounting.

since policies are controlled which have been defined by structures of government (Council of Ministers, ministries, provincial and municipal delegations), and in those in which they have not participated.

Moreover, the powers granted to the delegates indicate a transfer of power from the center of power to the grassroots levels, which to be effective must be accompanied by the ability to make decisions about the use and generation of resources, which invokes the issue of the municipal budget.

Since 1999, the improvement of the budgetary system was routed to encourage provincial and municipal governments to collect revenue and be more efficient in their expenditures. However, the design has not generated the expected consequences, as it has not increased the ability of delegates to make decisions regarding the local budget.

The dual currency in the country creates distortion regarding the existing budget, which makes it difficult to manage.<sup>31</sup> Transactions in convertible pesos (CUC) are a critical part of what makes it possible to have a role in the national economy. However, the State's budget is approved by the ANPP in pesos (CUP), wherein the amount of CUCs are included but as "equivalent" (1 CUC for 1 CUP). The result is that the National Assembly does not make substantial decisions through discussion on the budget, since the use of the convertible pesos is regulated by individuals at the top levels of the government. The National Office of Statistics offers data in CUP and it is unknown what the figures are in the other currency. Thus, a problem of legality is set: the existence of a scenario in which a decision is dominated by rules not subject to scrutiny by the supreme governmental bodies of the State. The procedure prevents citizen control over a central topic of resource allocation: the state budget, and it alienates the citizenry from the possibility of participating in its development.

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<sup>31</sup> Marta Prieto y Lissette Pérez, *Temas de Derecho constitucional*, Editorial Félix Varela, La Habana, 2000.

Locally, the AMPP approves a budget in CUP in which what is received is essentially defined by the highest courts and does not rely on the ability to intervene in the assignments of CUC, which are obtained by a directive from the upper levels of government. The adoption of municipal budgets becomes a formal act and not an instrument for local government to propose initiatives. With it, the role of the delegate is limited and its figure is minimized – at the same time, it remains part of the process – maintaining the transfer of popular sovereignty to the seat of government.

### **Control over the elected: accountability and recalls**

The control over representatives through accountability and recalls closes the circle traced by the institutional design for participation in determining the direction of the state.

Accountability is a must for all constitutional bodies and officials of the State. It is conceived as a social control on the activities of government, not reduced to the Popular Power.<sup>32</sup>

Meanwhile, delegates must put together accountability forums or town hall meetings twice a year, previously seeking information in order to provide convincing answers and coordinate assistance of the entities involved in the problems of the community. In reports prepared by the AMPP for its sessions, it is evident that there is concern about the quality of these spaces. The participation of neighbors in solving community problems is required; the agreement on the part of delegates regarding the proposals received by the AMPP; questions the permanence of the voters in these accountability forums or town hall meetings; and what happened during them; the communications between the delegate and their constituents is controlled, etc.

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<sup>32</sup> The following discussion on the use of the CUC regarding the budget is based on my interview for this research with Pavel Vidal Alejandro, an expert and researcher at the Center for the Study of the Cuban Economy (Havana, 21 June 2010).



Nevertheless, a report from the Committee on local bodies of the People's Power of the ANPP, from June 2006, presented as one of the most significant problems “issues connected to attentiveness, offering answers and solutions to address administrative directives from the group, which comprises the population.”<sup>33</sup> In 2009, another report of the same Committee declared, “It should be noted that the level of problem solving regarding issues raised to administrative entities is particularly low in some territories.”<sup>34</sup> For the interviews conducted for this project, we were able to verify high levels of formalism in the accounts regarding, for example, the tasks of monitoring and control.

The operation of such assemblies indicates a reduction of its content, because of associating the mandate with a type of administrative order and the limitations placed on the delegates regarding the performance of their duties. Correspondingly, the question of recalls causes problems as a mechanism of popular control over government activity. Usually it is preferable to accept resignation or not to reelect rather than face a recall in order to provide a negative performance evaluation regarding one's representative. The repeal itself, if done correctly, is only verified in exceptional circumstances, such as cases of theft by the delegate. A likely cause is that the procedure for carrying it out does not encourage its continued practice.<sup>35</sup>

At this point, the system misses the consequences of direct vote. Delegates to the Provincial Assemblies of the People's Power and the ANPP Members are elected directly by the

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<sup>33</sup> According to Abel Prieto, the Minister of Culture: “My work at the Ministry of Culture [...] is subjected to this ongoing discussion by the civil society. The Congress of the pioneers is celebrated and I receive what children say about cultural policy. [...] I attended a Writers Assembly at UNEAC [...] There we analyze everything from copyright fees to the enriching role that may be played by being critical of the revolutionary and committed intellectuals. I also attended the congress of the FEU. Our enemies say that this is the official civil society, manipulated, but these “instruments of the regime,” as they call them, demand that I explain things, and there have been very significant corrections.” Abel Prieto *et al.*, «El socialismo hoy: cultura y política», *Último Jueves. Los debates de Temas*, v. II, ICIC Juan Marinello/Temas, La Habana, 2008, p. 331.

<sup>34</sup> ANPP, *ob. cit.* ANPP. Informe presentado por la Comisión de Órganos Locales, Archivo del autor, 2006.

<sup>35</sup> ANPP, *Análisis del cuarto proceso de rendición de cuentas de los delegados de las Asambleas Municipales a sus electores. XIII mandato*, segundo semestre de 2009.

people and accountable before her, but in order to be revoked, that process would have to be done through the assemblies, not the voters. The fact, however, is consistent with the design: they are agents of higher state legislative bodies.

The figure required for a recall—no less than 25% of the voters or delegates to the assemblies which elected provincial delegates and representatives—is high compared with the provisions available within the NCL: Venezuela requires 20%; Ecuador, 10%, and Bolivia, 15% (as a minimum), of the community that has voted to revoke their leaders.<sup>36</sup>

The obligation of accountability could be a more effective social control if it were understood as part of an agency relationship whose content is not limited to administrative requests: the representative should be accountable to their constituents for the proposals received, by the specific decisions they have taken in their representative body to which they belong, while it could be commissioned to defend a determined will of their grassroots community of citizens.

Greater accountability to the voter, involves the development of related topics such as institutional transparency and public communication. From the legal point of view, it would be necessary to legislate a procedure regularized to have access to public information by citizens and adopt the law of freedom of speech and freedom of the press, as stated in the Constitution (Art. 53).

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<sup>36</sup> If during the recall process, the contested candidate resigns, the legislative body, considering the relevance, can accept the resignation and, when appropriate, provide for the conclusion of the process and archive the documentation definitively at the stage where they find themselves. The law provides certainly rigorous requirements for promoting the initiation of the process of removal from office and effectively declaring the recall. This opens up the possibility of discretionary use, from political judgments about the desirability of a process of this type. “One delegate screws up, but the district is complex politically. If you began the process of a recall, there is a vote and the person is not recalled, it is legal and it is your right, but it is a political nightmare. If I know the person will not be recalled, I’m not going to begin the process to remove them. If this same person offers to resign, I will accept.” Entrevista de Julio César Guanache con Tomás Cárdenas, presidente de la Comisión de Órganos Locales del Poder Popular, de la ANPP (24 de junio de 2010).

In the future, the regulation should be redesigned on the mandate to make it capable of adding demands regarding specific problems with the functioning of the administrative bodies of the locality, as is done today, but also for commissioning policies elaborated from the base obliging delegates to defend its meaning in the highest levels of the representational system and empower the citizen as a principal or agent in that relationship. Granting autonomy to the provinces and municipalities should promote the exercise of all the powers now vested in the delegate, and its expansion.

### **In conclusion**

For further democratic development, the Cuban state needs to become an actor of important decision-making, but not the only one making decisions. It is necessary to build power from different “places”— the state, the public sphere, popular organizations, civic groups— and in the political space governed by the principles of independence and cooperation, with the direct participation of the public in development, implementation and control of state policy towards the horizon: the collective construction of order.

The possibility of increasing citizen participation in the Cuban state system faces numerous obstacles, both from their own environment and from the design of the system. The institutional system is supported by the quality of the actors involved in it, despite the contradictions and disincentives presented. The basis of that experience presents problems, because the system does not exercise all rights, limits the content of the powers of the delegates and operates in a context that reduces the possibility of performing the tasks set before it. Therefore, it requires the rethinking of the model for citizen participation in the State, by redesigning it at its very core to enhance participation on the basis of the principles of ensuring

universal access to the state, the preeminence of popular sovereignty to the government and control over the representative.

In Latin America there are experiences that can serve as points of reference to the reformulation of the Cuban model of participation/political representation, specifically in the NCL. Discussions with this constitutional body can contribute to “updating” the Cuban institutional system of participation and, in general, regarding its philosophy on the exercise of power.

If they strongly abided by these changes, they would create a democratic radicalization of Cuba’s socialist model. The magnitude of these challenges should be dealt with through a national constitutional process.