

DELIBERATION IN THE PROCESS OF CONSTITUTIONAL REFORM: CUBA IN COMPARATIVE CONTEXT

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ABSTRACT

This work analyses the Cuban constituent participatory process by confronting it with 10 experiences of other Latin American cases identified since 1976. In doing so, I propose a set of basic criteria to be met in order for these participatory experiences to be deemed fair and democratic, with a focus on the mechanism of participation and the method of processing the contents generated.

1. INTRODUCTION

According to official data, for a period of 12 weeks between 1 August and 15 November 2018, more than seven million Cubans inside and outside the island met to discuss a constitutional proposal, the draft of which had been prepared by a Commission appointed by the National Assembly of the Popular Power (Asamblea Nacional del Poder Popular, 1987; Agencia Cubana de Noticias, 2018). While this is the official information, alternative media and consultations with representatives of Cuban civil society confirm that the process effectively reached massive participation, although they stress that the context was not one of free deliberation, but was tightly controlled from above (Domínguez *et al.*, 2020). On 22 December, five weeks after the end of this participatory process, the National Assembly approved the final text, which was then eventually ratified in a referendum on 24 February, 2019. With 90 per cent participation, 87 per cent voted in favour of the new constitution (Asamblea Nacional del Poder Popular, 2019).

"I would like to thank Laurence Whitehead and Bert Hoffmann for very useful comments that improved this article."

Considering that the Cuban electoral roll is close to eight million, such participation can be described as being of a scale rarely seen in other parts of the world (in fact, there are no records of anything similar anywhere). It could reinforce the typical trend to consider Cuba as an exceptional case. From a regional perspective, the cases of citizen participation in constituent processes that have been most studied and cited in recent decades, which are part of the new 'Latin American constitutionalism,' did not engage such numbers of participants. In Colombia (1991), Venezuela (1999), Ecuador (2007) or Bolivia (2006–2009), the number of participants did not even reach a quarter of the population, let alone half.¹ Even though it is notable in some cases such as Ecuador in 2008 (see Ortíz Lemos, 2013) it is far from the case observed in Cuba. For some scholars, this would be a true test of the validity of the old-fashioned democratic-centralism, with the people exercising a constituent power. For others, the government has never lost control and it would be just a new example of political manipulation.

The current study aims to analyse the Cuban constituent participatory process by confronting it with the experience of other Latin American cases from 1976 until the present. In doing so, two dimensions are defined for the analysis. The first is the mechanism of participation: who is allowed to participate, for what, for how long and with which information. The second is the method of processing the content generated during the deliberations: Is there a method to classify or select amendments and suggestions? If yes, it is known in advance? Who is in charge of implementing it? Is it published and therefore possible to trace and identify changes? We assume that neglecting one of these two aspects leads to erroneous or incomplete conclusions, underestimating mobilisation and/or overestimating its incidence in the final text. For example, if the process of participation is open and plural but later on contents are selected by a commission controlled by the government, the results will not reflect 'the will of the people'. If the process of amendment is transparent but only members close to the regime are allowed to participate, the result will also be biased. How was it in Cuba and how does Cuba fit into the regional experiences of participatory constitution-making?

This paper proceeds as follows: the next section reviews the findings of previous research, showing the need to deepen the analysis of the mechanisms of deliberation and the procedures for including the content generated by participatory processes. Then the methodology and case selection are presented. Next, the empirical analysis is performed. Finally, conclusions are drawn.

2. THE ROLE OF 'THE PEOPLE' ON THE CONSTITUTIONAL AGREEMENT

The imaginary of modern constitutionalism is theoretically based on the founding role of the people expressed in a constitutional agreement (Negretto, 2018). This role of 'the people' is claimed not only by liberal democracies but also by the Soviet tradition of 'democratic centralism', which marked the theoretical development of concepts during the 20th century. In liberal democracies, direct participation was perceived as an expression of authoritarianism while indirect politics (that is, through representation), were considered more legitimate (Zaremborg and Welp, 2020).

By the mid-twentieth century, there was a dichotomy between authoritarian participation and democratic representation. It began to break down in the 1970s while the promotion of citizen participation in the West became more popular after the fall of the Berlin Wall. Since then, diffusion or *zeitgeist* (spirit of the time) and various mechanisms of citizen participation and control have expanded throughout the world, considering complementing and enriching the relationship between participation and electoral representation as a form of democratic deepening. Thus, in recent decades, the limits between these two traditions have been blurred in terms of participatory processes, and participation formats with similarities in the procedure have been observed.²

Citizens' engagement in constitution-making was mainly promoted in contexts of conflict resolution, decolonisation, and independence in which international organisations such as the United

1. See Welp (2018), Jiménez Martín (2006), Ortíz Lemos (2013), García-Guadilla and Hurtado (2000), Maingon et al. (2010), Tanaka and Vera (2010).

2. Laurence Whitehead (2017) developed a clearer overview of "the 'fiction' of representation and the 'faction' of direct democracy".

Nations (UN), the United Nations Institute for Peace (USIP) or the Institute for Democracy and Electoral Assistance (International IDEA) have taken a position in favour of citizens' participation (see Hart, 2003; Ghai, 2006; Gluck and Ballou, 2014). More recently, citizens' engagement in constitution-making was also promoted in democratic contexts in which deep crisis would have led to a considerable decrease of legitimacy, such as Iceland in 2011. Guinsburg *et al.* (2009) pointed out that constitutions gain weight when they are developed in extraordinary contexts of popular mobilisation, which include extra-parliamentary processes of ratification and communication. Other studies have supported similar conclusions (Eisenstadt *et al.*, 2017; Contiades and Fotiadou, 2016). However, the results of these processes in terms of increasing legitimacy and giving stability to the new regimes are not crystal clear. For instance, Parlett found evidence of constitutional systems in post-communist countries in Europe and Asia that have been established and endured without been backed by previous popular mobilisations, while many of those approved with that condition did not necessarily produce better constitutions in terms of limiting the concentration of power in the president (Parlett, 2012: 195-196). Such a discussion is beyond the goals of this article; here, the focus is on the criteria to be fulfilled by a process to be considered fair, competitive and democratic.

Saati (2015) analysed constituent processes in post-conflict cases, concluding that there is not enough evidence on the positive effects of citizen participation. According to Saati, minimal and insignificant experiences have been overvalued, due to their promotion by international organisations, even when minimum requirements to guarantee citizens' inclusiveness were not met.

In Latin America, the 'new constitutionalism' has emphasised the participatory nature of the processes observed in the Andean region, especially in the analysis of Venezuela (1999), Ecuador (2007-2008), and Bolivia (2006-2009) (Viciano Pastor and Martínez Dalmau, 2011). However, participation has been overrated, not paying enough attention to the intrinsic characteristics of these processes and in particular to their (lack of) autonomy from the ruling governments, inclusiveness, and transparency of content processing. Other research has analysed the extent to which pluralism conditions the results of the constituent processes (Bejarano and Segura (2013), with particular focus on the Colombian case). The latter provides one of the central elements for our proposal, which refers to the subjects that participate and to the supervision and coordination of the process.

In our view, most studies have focused on case analysis, without paying enough attention to the conditions that a constitutional change process with deliberative participation should meet. Thus, in order to contribute not only to the understanding of these processes but also to the discussion of standards, in previous work (Welp and Soto 2019) we proposed two groups of conditions that are determinants of the type of process generated. The first is *the mechanism of deliberation* (access to information, time given for it, actors included and the opening of the agenda) and the method of processing the contents generated (if something like a method exists or not, if it has been previously communicated, if it is traceable and if it allows the contents to be connected to the final discussion of the constitution – and, if so, how). These aspects are the key for explaining whether or not an informed, open and plural deliberation occurs, but they are not enough.

The second dimension is *the method of processing contents*: if it exists or not, if it has been previously defined, if it allows or not to trace results, and if it is or is not controlled by the government. Even if participation is plural, it may not have a connection with the constituent process, unless a specific mechanism establishes it. The traceability condition does not presuppose an automatic approval of citizen proposals, but it does presuppose their treatment (essential criteria for a process not to be merely symbolic). The public information given before, during, and after the process is also key. The government's control over the procedure will be especially taken into account in the second dimension of analysis, under the idea that a broad, inclusive and participatory process could be also controlled, when the contents are, at the final stage, filtered by the government without a transparent and legitimate procedure.

3. METHODOLOGY AND CASE SELECTION

The focus here is on collective deliberation and collective content produced for a new constitution; thus, I am not dealing with other types of consultation (participatory budgeting or other citizens assemblies) or with referenda (not addressed to produce content neither to deliberation). The type of participation I am interested in may occur before (prior consultations to prepare a draft) or during (discussion of a draft), or in both. Collective public participation is a necessary condition for inclusion in my sample. I selected experiences in which participation was regulated and/or promoted by the government or public institutions, excluding those in which it occurred in parallel, as an act of civil society. The time-frame focuses on what Elster (1995) identified as the sixth wave of constitution-making, which started in 1970 (1970–2019). Eleven cases in 10 countries were selected, as listed in Table 1.

TABLE 1: ELEVEN CASES OF CITIZEN'S DELIBERATION FOR CONSTITUTION-MAKING

Case	Year	Context	New constitution?	Final Referendum
Cuba	1976	Institutionalisation of the Revolution	Yes	Yes
Nicaragua	1986	Institutionalisation of the Revolution	Yes	No
Guatemala	1994–1996	Pacification	No	Yes
Brazil	1988	Transition to democracy	Yes	No
Colombia	1991	Pacification	Yes	Yes
Venezuela	1999	Transformation of the political system	Yes	Yes
Ecuador	2007	Transformation of the political system	Yes	Yes
Dominican Rep.	2007	Institutional reform	Yes	No
Bolivia	2006–2009	Transformation of the political system	Yes	Yes
Chile	2015	Institutional reform	Not initiated (yet?)	--
Cuba	2018	Institutional reform	Yes	Yes

Source: Author's elaboration

I am interested in this paper in the institutional design of the mechanism of deliberation and the procedure for processing the content generated (not in the final constitution³). In addition to the design, practices are analysed (how they occurred and if the outcomes were published), based on primary and secondary sources for each of the cases. The dimensions and indicators were defined as follows⁴:

Characteristics of the mechanism of deliberation:

- **Information offer and civic training stage:** Here it was registered whether the process was accompanied by an educational stage and/or dissemination of information (coded as *Planned* or *Improvised*). In the case of an affirmative answer, it was assessed whether this was adequate (*sufficient/insufficient*) or based solely on the vision of the government (*biased*).
- **Time:** The guiding question was whether there was time enough to conduct a *real* discussion. Coded as *Improvised* (not fixed) or, if *Planned*, as *sufficient/insufficient*. I am aware that this is a controversial criterion. The evaluation was based on reports from civil society organisations and scholars.
- **Actors convened:** It was observed whether, according to the call, the process was aimed at a few actors (*restricted*) or was open (*inclusive*). It was then observed how it worked according to reports.
- **Plural discussion:** It is registered if the agenda was *closed* and predefined or if it was *open*.

3. Accordingly, I am not entering into a discussion of which changes are amendments and which one's drive to a new constitution. Nevertheless, it is worth mentioning that the doctrine is not uniform in defining the limits between one and the other. A new constitution may result alternatively from: (a) in a strictly procedural sense, the total revision of the Constitution according to the procedure established by it; and/or (b) of the breaking of the constitutional rules, which makes room for other specific discussions.

4. These dimensions are based on Welp and Soto (2019).

Characteristics of the procedure for processing the content generated:

- **Method:** If there was one (Yes/No), defined as the criteria for preparing the systematisation documents.
- **Observation** of whether the method was previously communicated (Yes/No)
- **Traceability:** When the contents were published (even when there was no explicit method of aggregation of preferences), it is possible to track their incorporation or at least their discussion during the convention. This is not possible when citizens do not have access to documentation (Yes/No).
- **Incidence:** traceability is a condition to identify whether the content produced had incidence or not. If there is not a clear outcome (e.g a written report), it is not possible to observe whether the constitutional discussion incorporated issues arising from the citizens' deliberation. Different methods can guarantee that the contents of the participatory process are necessarily discussed by the constituent body (for example, citizen proposals backed by a certain number of signatures; or compulsory discussion of the suggestions) or, on the contrary, could be optional and discretionary. I codify as 'Yes' when the mechanism forces the discussion of the contents generated in the Congress or Constituent Assembly. The incidence is 'mandatory' when it leads to discussion and 'optional' when the specific discussion is at the discretion of the constituents.
- **Connection with the constituent process:** Here it was observed whether there was control of the government. There are many options, including the a 'smokescreen' if, ultimately, a few actors of doubtful legitimacy decide what enters and what does not (an example of this would be the most recent Cuban process, of 2018). Coded as independent (not controlled by the government) or prejudiced (under government control).

4. ANALYSIS: MEANINGFUL CITIZENS' PARTICIPATION OR SMOKESCREENS?

In this section the 11 cases are presented briefly in order to later classify the processes of deliberation and to compare and extract conclusions. As an additional goal, I want to observe the extent to which processes conducted in democratic contexts are, as should be expected, clearly democratic when confronted with the ones developed in hybrid or authoritarian regimes. I suggest that when the basic conditions are not fulfilled, even the participatory process in a democratic setting could just be a 'smokescreen'.

Cuba (1974–1976): Many can talk but few in the party decide

In 1974, the Cuban government and the Communist Party appointed a Drafting Commission made up of 20 members. The experience was inspired by the elaboration of the Soviet Constitution in 1936 and the Czech Constitution in 1960, where the Communist Party had notable participation and the project was subject to popular discussion (Guzmán Hernández, 2015). It must be mentioned that, in 1940, Cuba had approved one of the most progressive constitutions of the time. However, backed by the US, the dictator Fulgencio Batista suspended the constitution and the rule of law (Rojas *et al.*, 2017), creating the conditions for the Revolution. From 1959 until 1974 the revolution did not create its constitutional basements. In 1975 there was a public discussion in which 216,000 people proposed more than 12,000 modifications (Zaldívar Abad, 2016: 25–26). The draft was discussed by members and followers of the Party, grassroots committees and governing bodies of the Young Communist Union, the trade union sections, the Committees for the Defense of the Revolution and, among others, the Revolutionary Armed Forces. The participatory process would have resulted in the modification of 60 articles (Guanche, 2013) but the discussions were not made public and there is no information about the process for selecting and rewriting the draft. The First Congress of the Communist Party of Cuba approved the text, which was finally ratified by popular referendum.

Nicaragua (1986–1987): The institutionalisation of the Sandinista regime

In Nicaragua in July of 1979, the Sandinista Popular Revolution put an end to the dictatorship of the Somoza family (1934–1979). After the electoral victory of Daniel Ortega in 1984, the constitutional process was launched. A special commission (not elected), composed of representatives of seven political parties, elaborated on the constitutional proposal. Seven hundred and fifty thousand copies were published, and between May and June 1986, councils were organised throughout the country.

More than 70 councils were activated, in which contributions were received from all social groups. About 100,000 citizens participated, of which 2500 made suggestions in the councils and 1800 delivered them in writing. The Constitutional Commission was responsible for receiving the result of the Constitutional Open Councils and the opinions and suggestions made by citizens. After the systematisation, several changes were recommended that were subsequently submitted for discussion and approval by the plenary of the legislative body (National Assembly, 1987).

Brazil (1988): 'The Citizens' Constitution'

The case of Brazil is well known because the constitutional replacement was conducted within the transition to democracy in 1988. Different instruments were designed to channelise citizens' suggestions, proposals and criticisms, with clear prerequisites for its activations. For instance, 72,719 petitions by 122 civic associations were accepted and registered after gathering about 12 million signatures. Of these, 83 (a low number in proportion) gathered the formal prerequisites to be presented at the Congress,⁵ becoming an antecedent of the popular initiative. There were also approximately 400 citizen meetings at the local level that generated around 2,400 suggestions. Lastly, once the first draft of the constitutional text was presented, associations with legal registration could make new suggestions when they could support them with 30,000 signatures (Rauschenbach, 2011). The final decisions were in the hands of the parliament, but the mechanism guaranteed the arrival of certain issues and forced MPs to discuss them. Thus, the key point is not that the procedures allowed to direct decision but that the rules for the participation were clearly formulated.

Colombia (1991): Popular support for a new social contract

In the late 1980s, violence and discrediting of the political class dominated the Colombian public sphere. In 1988, President Virgilio Barco (1986–1990) tried unsuccessfully to promote constitutional reform. In 1990, before the general elections, three candidates for the presidency were assassinated: Luis Carlos Galán of the Liberal Party, Bernardo Jaramillo of the Patriotic Union and Carlos Pizarro of the M-19 (linked to the guerrilla). On March 11, for the election of parliamentarians, a group led by students, organised in a movement known as 'the seventh ballot' (la séptima papeleta), requested through an *ad hoc* referendum the convocation of a constituent assembly. Despite being informal, 2.2 million ballots were counted, following an order of the Tribunal (Jiménez Martín, 2006). Then, the new president César Gaviria (1990–1994) assumed the mandate to change the constitution and called for a new referendum. The participatory process was prior to the launch of the convention. A total of 1,580 working groups were formed that operated throughout the country between September 16 and November 15, 1990 (constituent elections would take place in December), giving rise to the presentation of more than 100,000 proposals. The proposals of the working groups were recognised in a synthesis prepared by the same preparatory commissions and later discussed by the convention (Jiménez Martín, 2006; Welp, 2018).

Guatemala (1994–1996): A frustrated participatory process

In 1994 an agreement between the government and the Guatemalan National Revolutionary Union (URNG) reopened the peace negotiations addressed to put an end to the civil war. It had the United Nations and several countries as observers and mediators. A Civil Society Assembly (ASC) consisting of 84 delegates representing 47 organisations was launched, and thematic commissions were created to formulate proposals on priority issues, which were then discussed in plenary sessions by delegates of all participating groups. The model allowed for a plural and open participation. These documents were shared in other meetings with various political and social actors, including organisations representing women, businessmen, indigenous people, peasants, the Church, human rights NGOs and displaced persons, which resulted in an agreement signed by the government and finally submitted (and rejected) in a referendum in which only 17 percent of citizens participated (Delgado and Brett, 2005; Alvarez, 2004).

5. Brazil did not have a constitutional convention but a parliament in charge of writing the constitution. After delivering the constitution, the parliament kept running as such, completing the mandate.

Venezuela (1999): Mobilising as a strategy to overpass institutional obstacles

The victory of Hugo Chávez in the 1998 elections opened the door to the long-postponed constitutional replacement (Maingon *et al.*, 2000), but it was not easy to promote it since the Constitution in force at the time did not allow the convocation of a constituent assembly (CA) and the president did not have a parliamentary majority to promote a constitutional amendment reform prior to the replacement. The government then opted for an advisory referendum to authorise the convening of a constituent assembly (the process was extremely controversial; for details, see Massuger and Welp, 2013) but was finally accepted. Despite being highly cited for its participatory nature, there were no formal procedures to channel or process the information generated by the grassroots participants. The first three months of the constituent assembly were characterised by a participatory debate, while the second discussion of the constitutional project took place in a few days. The most participative stage was that which occurred during the election campaign for assembly members, while the representation of the ruling party in the AC favoured having no debates and the strength of the numbers prevailed (Garcia-Guadilla and Hurtado, 2000).

Bolivia (2006–2009): A participatory process without influence on the draft

The Movement to Socialism (MAS), led by Evo Morales, triumphed in the 2005 elections and initiated constitutional change. In Bolivia, unlike Colombia, Venezuela and Ecuador, there was no controversy over the legality of calling a constituent assembly, since it was regulated in the current Constitution (Art. 232, 2004 reform), although there was a confrontation around the powers that the constituent body could assume. The constitutional assembly was criticised for its lack of debate and the exacerbated racism that materialised in disqualifications for clothing and habits and in the refusal to allow members of the population identified as indigenous to enter restaurants and hotels near the convention. The territorial meetings, which were intended as a journey through the country of the 255 assembly members to listen and present proposals, contributed to counteracting the absence of debate in the assembly. However, they had little impact on the preparation of the final text (Lazarte, 2008; de la Fuente Jeria, 2010). Also, while social movements were quite active, their influence was shaped in the form of informal exchanges with representatives rather than being channelised in an open process of participation.

Ecuador (2007–2008): Massive participation, presidential control over the process

Like Hugo Chavez in Venezuela, Rafael Correa in Ecuador (running for Alianza País, the new party he created for the election) had campaigned on the promise of convening a constituent assembly, and he activated a referendum to unlock the process once he reached the government in 2007 (that is, the ruling constitution did not allow its reform by a constitutional assembly and the new president did not have representation at all in Parliament). Also, as in Venezuela, the arrival of Correa to the government happened within a period of huge social and institutional crisis.⁶ The election of assembly members for the constitutional convention gave Correa and his allies a considerable victory (80 of the 130 seats). A Social Participation Unit was created and three people were given the mandate to organise and systematise all the proposals and comments received. The number of participants and suggestions overwhelmed the process: some 170,000 visits were registered. Workshops and discussion groups with experts were also organised (see Ortiz Lemos, 2013; Centro Carter, 2008). The lack of resources and methods, on one hand, and the tight control of President Correa on the other, would have even limited pluralism within the assembly (for details, see Welp, 2018).

Dominican Republic (2007): Experts and authorities consulting ‘the people’

In the Dominican Republic, the process arose from an initiative promoted by President Lionel Fernández in October 2006 to form a Commission in charge of preparing the draft reform

6. There were eight presidents in charge of the executive between 1996 and 2006, with three institutional ruptures caused by popular protests: an especially strong economic crisis in the early 2000s and inter-institutional clashes such as those that led to the Supreme Court's failure to function for almost a year in 2005.

of the Constitution prior to a participatory process. The process in question was entrusted to a commission of 13 jurists (decree No. 323/2006), which prepared a document with 77 questions and designed a methodology of popular consultation accompanied by open councils. The implementation was carried out by a team of facilitators who had to articulate a participatory process at the municipal level and systematise the results generated. The conclusions were presented at a National meeting (February 2007), based on a report of recommendations (April 2007) that were weighted by an elected Review Assembly (2009) that finally approved the final constitutional text (DIAPE, 2007). This means that there was a methodology and clear rules, despite the process being oriented to a consultation more than to promote deliberation.

Chile (2015): The (still) frustrated citizen's dialogue

In Chile, the participation process arose as a commitment of President Michelle Bachelet (2014–2018). Participation was not carried out on a draft, but on three topics of constitutional conversation: values and principles; rights, duties and responsibilities; and institutions of the State. The consultation process was carried out under two modalities: a digital form that was answered individually and in-person collective deliberation. The collective debate stage, in turn, was implemented in three phases: local, provincial and regional. The first, which was called Local Self-convened Meetings (ELA), was the one that registered the highest participation, with 106,412 participants followed by the individual consultation with 90,804 responses. In the provincial and regional councils, 12,852 and 8,621 people participated, respectively. In total, more than 200,000 people participated. The process was accompanied by a Council of Observers and another of systematisers, who presented their respective reports in January 2017. In March 2018, upon the end of her government, President Bachelet sent a new constitution project based on the results of the participatory process (although it attracted some criticism). This project has not been discussed in the Parliament (Soto and Welp, 2017). Even then, it had the most advanced and transparent methodology applied in the region until now, and all the data generated is available.

Cuba (2018–2019): Massive and controlled

In 2018 Cuba conducted a new process of deliberation. According to official data, more than seven million Cubans (64 per cent of the population) discussed a constitutional proposal prepared by a commission appointed by the National Assembly; the discussion was organised in 12 weeks in neighbourhoods and towns. Although this suggests massive participation, the opposition is prohibited and persecuted. In the 133,681 meetings, about 10,000 proposals were generated. The National Processing Team analysed the interventions while they were being received, without a predefined criteria. The documentation generated was then passed to the Analysis Group, which was composed of eight members of the Editorial Committee and 22 experts from various branches of Law (handpicked). They drafted the text that was approved by the National Assembly and ratified in a referendum on 24 February 2019. All this documentation, unlike the 1975 process, has been available. For these reasons, the process did have incidence, although it was controlled.

5. DISCUSSION

The 11 analysed cases are similar and different in many contextual features. However, the mechanisms of participation show that, with the exception of Cuba, it was open and plural in all cases. Only in Cuba was there political prosecution and some restrictions on what could be discussed, with remarkable differences between 1976 and 2018 (when the discussions were much larger and more open). However, despite the emphasis made on the participatory feature of the new regimes in Venezuela, Ecuador, and Bolivia, there was no real planification of a civic stage and or of the citizen's deliberation. Chile stands out as the best-organised process but, interestingly, it did not end with a constitutional replacement and is therefore not a model for our second dimension, in terms of the mechanisms to systematise contents generated and connecting it to the convention.

TABLE 2: CHARACTERISTICS OF THE MECHANISM OF PARTICIPATION (11 CASES)

Case	Information/ Civic education stage	Time for deliberation	Participants	Agenda
Cuba 1976	Planned / Biased	Planned / Sufficient	Restricted	Partial
Nicaragua 1986	Planned / Adequate	Planned / Sufficient	Inclusive	Plural
Guatemala 1994-1996	Planned / Adequate	Planned / Sufficient	Inclusive	Plural
Brazil 1988	No	Planned / Sufficient	Inclusive	Plural
Colombia 1991	No	Planned / Sufficient	Inclusive	Plural
Venezuela 1999	No	Improvised	Inclusive	Plural
Ecuador 2007	No	Planned/Insuff.	Inclusive	Plural
Dominican Rep. 2007	Planned / Adequate	Planned / Sufficient	Inclusive	Plural
Bolivia 2006-2009	No	Improvised	Inclusive	Plural
Chile 2017	Planif. / Adequate	Planned / Sufficient	Inclusive	Plural
Cuba 2018	Planned / Biased	Planned / Sufficient	Restricted	Partial

Source: Own elaboration from primary and secondary sources for each case.

In contrast to the openness, planification and pluralism that characterised most of the countries in the first dimension, the procedure to systematise the contents generated was only clearly fixed in three cases (Brazil, Dominican Republic and Chile), and only Brazil really worked in terms of connecting the citizens' demands to the constitution-making process. In Cuba in 1976 and 2018, the final decision was in the hand of the government; the same applies to Venezuela, Ecuador, and Bolivia, but in these cases, there is no report summarising citizens' proposals and, accordingly, there is no evidence suggesting a connection between citizens requests and final decisions.

TABLE 3: CHARACTERISTICS OF THE PROCEDURE TO SYSTEMATISE CONTENTS GENERATED (11 CASES)

Case	Method	Previously informed	Traceability (Published)	Incidence	Connection constituent body
Cuba 1976	No	--	No	No	Prejudiced
Nicaragua 1986	No	--	Yes	Yes, optional	Independent
Guatemala 1994-1996	No	--	Yes	Yes, optional	Independent
Brazil 1988	Yes	Yes	Yes	Yes, optional and mandatory	Independent
Colombia 1991	No	--	Yes	Yes, optional	Independent
Venezuela 1999	No	--	No	No	n/a
Ecuador 2007	No	--	n/d	n/a	n/a
Dominican Rep. 2007	No	--	Yes	Yes, optional	Independent
Bolivia 2006-2009	No	--	No	No	n/a
Chile 2017	Yes	No	Yes	(No)	n/a
Cuba 2018	No	--	Yes	Si	Prejudiced

Source: Own elaboration from primary and secondary sources for each case.

6. CONCLUSIONS

Citizen participation in the definition of public affairs is a founding myth, an articulating principle, and a fashion or remedy for disenchantment with the political status quo. This is the case in the process of constitutional reform. Cuba is incorporated into this framework with specific characteristics. The first and most relevant for our purpose is that it is not a democratic system. The second is that its more recent patterns of participation bring little that is new to the current discussion because they rather reproduce patterns of functioning typical of authoritarian regimes with state control. A third novelty is that control is tight from above, but there is more information than on previous occasions to specifically monitor the mechanism that is activated to create the illusion of participation that is real but without legitimate influence on the final constitution. This results from the use of new

communication technologies, which enables a greater systematisation of results and publication of results.

Some issues sparked much debate and others less, and there have been notable and late changes, such as the recognition of the legal supremacy of the constitution or the possibility of judicialising rights. As has already been said, communism ‘as a principle’ continues in the Constitution but the direct election of the president has not been presented nor have steps been taken in the recognition of political pluralism (the text preserves the ‘guiding role’ of the Communist Party). The constitution recognises various forms of ownership, including private, mixed and cooperative, and the state has been given the role of the market regulator. One of the issues that generated the most controversy has been same-sex marriage. The 1976 Constitution recognised marriage between a man and a woman. The first draft released by the commission has sought a neutral formula by speaking of ‘spouses’ that does not close the door on same-sex marriage but does not open it completely either. As in many other rights that remain in the middle, it is announced that the laws will give it shape; in this case, a Family Code that would be voted on in a future referendum. Many doubt that this referendum can result because the party is not aligned around a position and is not used to opening doors to internal divisions, much less letting the citizens decide without guardianship.⁷

Although my research confirms that deliberative processes implemented in non-democratic contexts tend to not meet the minimum requirements to be considered open and plural, it also shows that processes implemented in democratic contexts are deficient (Ecuador is an outstanding example). The conclusions suggest that it is essential to define standards for fair deliberative processes and invite the readers to discuss the most appropriate mechanisms for this (two possible examples are sorted assemblies combined with referendums and/or deliberation processes that allow the generation of initiatives backed by signatures). At the level of policy design, these findings invite promoters of deliberative participation, in general, to take into account the minimum criteria that a process of these characteristics requires to prevent them from continuing to feed the spiral of disenchantment. The main theoretical implication invites to consider that a participatory process must comply with minimum parameters that make it possible to distinguish between a mere symbolic or instrumentalised exercise and a fair, competitive and democratic procedure.

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