

2-3-2020

## Popular Consultation and Referendum in the Making of Contemporary Cuban Socialist Democracy Practice and Constitutional Theory

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### Recommended Citation

Larry Catá Backer and Flora Sapio, *Popular Consultation and Referendum in the Making of Contemporary Cuban Socialist Democracy Practice and Constitutional Theory*, 27 U. Miami Int'l & Comp. L. Rev. 37 (2020)

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POPULAR CONSULTATION AND REFERENDUM IN THE MAKING OF  
CONTEMPORARY CUBAN SOCIALIST DEMOCRACY PRACTICE AND  
CONSTITUTIONAL THEORY

Larry Catá Backer\* & Flora Sapio\*

*Abstract*

*The language of democracy and democratic organization is usually spoken only in the vernacular of liberal democracy. Liberal democracy, mostly of western origin centers legitimacy of a political order on open, full, and free election for representatives, as well as a substantially unregulated civic space in which individuals and others can engage in political discourse. This essentially exogenous form of democratic organization has been increasingly challenged in the 21st century by an alternative model of endogenous democracy more compatible with states organized along Marxist Leninist principles. These emerging forms of endogenous democratic practices have been developed along two distinct lines, one embedded in developing principles for Chinese Marxism-Leninism, and the other grounded in the*

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*history and context of Cuban Leninism. While adherents to orthodox principles of liberal democracy have rejected any efforts to consider the plausibility of Marxist-Leninist democratic practice (principally because it requires suspension of the core operating principles of liberal democracy, though not its effects), these emerging alternative forms of democratic organization are worth serious study, if only because of their potential influence on the development of the optimal model of developing states. This article focuses on the development, since the 1959 Revolution, of a Cuban version of Socialist Consultative Democracy.*

*The article traces the origins of the contemporary expression of Cuban Socialist Consultative Democracy in two early attempts by the revolutionary government to transform the practices of bourgeois democracy into something different. These attempts, one at direct popular affirmation of leadership policies, and the other an institutionalized system for popular consultation, emerged in new forms after 2011 and have found their most complete expression in the complex processes of popular consultation and popular affirmation that marked the Cuban constitutional reform process of 2018-2019. What makes this particularly interesting is the way that it may provide a glimpse at the development of a set of practices (and the theory seeking to legitimate its forms) that might provide other developing states with an alternative path to democratic engagement that minimizes the risks of traditional liberal democratic practice. The article starts with context, considering the contours of the fundamental problem of ordering democracy and its compatibility with the political model for illiberal states. It then turns to the development of what will become Cuban Socialist Democratic models. To that end, it looks to the two principal sources from which these principles were developed. The first is the development of mechanisms for popular affirmation of the actions of the vanguard party; the second is the development of models of popular consultation under the guidance of the vanguard party and structured through a representative assembly. Taken together, these two elements contributed to the production of the initial or 1.0 version of Cuban Socialist Consultative Democracy. The article then considers how that more primitive model developed (along with Cuban Leninist theory) under the*

*leadership of Raúl Castro from 2011. It traces the pragmatic and theoretic developments from early efforts around the development of the Guidelines for Reform of 2011, through the articulation of a new political and economic model in 2016, and then emerging in its current 2.0 form in the elaborate process of popular consultation and affirmation of the 2019 Cuban Constitution. The paper covers the challenges, contradictions, and potential for this endogenous form of democracy.*

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## INTRODUCTION

The 2019 Cuban Constitutional reform made very public a development that had been ongoing in Cuba for almost a decade before.<sup>1</sup> That development involved the transformation of Leninism<sup>2</sup> in a way that made a space—however, tentative—for the participation of the collective in the implementation of the fundamental political and economic line developed under the leadership of the vanguard party which served as the “core” of political authority.<sup>3</sup> The development of a transformed theory of collective and core within Leninist theory has marked one of the most remarkable changes in Marxist-Leninist theory since the development first of radical collectivity under Mao Zedong’s

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<sup>1</sup> Mervyn Bain, *Cuba’s New Constitution is Embodiment of Island’s Unique Brand of Politics*, THE GLOBE POST (Mar. 8, 2019), <https://theglobepost.com/2019/03/08/cuba-politics-constitution/>.

<sup>2</sup> Though the terms Marxism and Leninism are often used together, almost as a single concept, they are actually quite distinct concepts. Marxism might most usefully be understood as the normative foundations of political systems grounded in a rejection of mass individual ownership of capital and of political systems meant to privilege this centering of the division between capital ownership and labor. For the well-known but arguably little read classic first contemporary iteration, see KARL MARX, CAPITAL (VOLUME 1: A CRITIQUE OF POLITICAL ECONOMY) (Friedrich Engels, ed., Samuel Moore, Edwards Aveling & Ernest Untermann, trans., 2017) (1867). Marxism itself has undergone substantial development since its initial development by Karl Marx from an explanation of the sociology and politics of economic organization to a set of fundamental normative principles through which system (with substantial contextual variation) of a political-economic model for the organization of states could be undertaken. Leninism on the other hand speaks to the political system necessary to replace the system of individual capital ownership and the principles for control of the political-economic apparatus of state by a revolutionary vanguard to prepare individuals for the establishment of a society grounded in Marxist normative principles. See generally LESZEK KOLAKOWSKI, MAIN CURRENTS OF MARXISM 661-686, 730-777 (P.S. Falla, trans., 2005).

<sup>3</sup> See LARRY CATÁ BACKER, CUBA’S CARIBBEAN MARXISM: ESSAYS ON IDEOLOGY, GOVERNMENT, SOCIETY, AND ECONOMY IN THE POST FIDEL CASTRO ERA (Little Sir Pub. 2018).

Cultural Revolution.<sup>4</sup> That was followed by the equally *radical technocratization* of the vanguard apparatus which sought to express the popular collective through an organized and responsive set of representative state and non-state organs.<sup>5</sup> It was this technocratization and institutionalization of consultation that has marked the development of Chinese approaches since the time of the Reform and Opening Up era of Deng Xiaoping's socialist modernization gloss on Leninist collectivity.<sup>6</sup> The result of these transformations has been felt within the expression of constitutions and constitution making.<sup>7</sup> But this is constitution making of a very different sort, and one seeking, in its own way, to develop structures and principles of democratic governance that accord with foundational principles of political organization incompatible with those of liberal democratic states and the national cultures it advances.

In some sense, all such approaches to democratic ordering must deal with the management of the relationship of leadership "cores," and of the "collectives" they serve.<sup>8</sup> For Marxist Leninist systems,

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<sup>4</sup> See, e.g., Jiang Shigong, 'Philosophy and History: Interpreting the "Xi Jinping Era" through Xi's Report to the Nineteenth National Congress of the CCP' ["哲学与历史—从党的十九大报告解读“习近平时代”] *The China Story* (Australian Centre on China in the World (CIW) at the Australian National University) (May 11, 2018) (Translation by David Ownby. Notes by Timothy Cheek and David Ownby) Permalink [HERE](#)); considered in Larry Catá Backer, *Reflections on Jiang Shigong on "Philosophy and History: Interpreting the 'Xi Jinping Era' through Xi's Report to the Nineteenth National Congress of the CCP"* LAW AT THE END OF THE DAY (June 3, 2018), <https://lcbackerblog.blogspot.com/2018/06/reflections-on-jiang-shigong-on.html#more>.

<sup>5</sup> See, e.g., Joseph Fewsmith, *Studying the Three Represents*, CHINA LEADERSHIP MONITOR, [http://media.hoover.org/sites/default/files/documents/clm8\\_jf.pdf](http://media.hoover.org/sites/default/files/documents/clm8_jf.pdf) (on the reform of the Chinese Communist Party in the era after Mao Zedong).

<sup>6</sup> See, e.g., HU ANGANG, CHINA IN 2020: A NEW TYPE OF SUPERPOWER (2011).

<sup>7</sup> See, e.g., TOM GINSBURG & ALBERTO SIMPSON, CONSTITUTIONS IN AUTHORITARIAN REGIMES (Cambridge University Press, 2014); Mark Tushnet, *Authoritarian Constitutionalism*, 100 CORNELL L. REV. 391 (2015) (on constitutions and constitution making in illiberal and Marxist-Leninist States from a conventional liberal democratic perspective). See, e.g., TONG ZHIWEL, RIGHT, POWER, AND FAUQUANISM; A PRACTICAL LEGAL THEORY FROM CONTEMPORARY CHINA (Brill, 2018); Larry Catá Baker, *Party, People, Government, and State: On Constitutional Values and the Legitimacy of the Chinese State-Party Rule of Law System*, 30 B.U. INT'L L.J. 331-408 (2012) (for a different perspective).

<sup>8</sup> On the issue of representation in liberal democracies, see, e.g., JOHN GASTIL, BY POPULAR DEMAND: REVITALIZING REPRESENTATIVE DEMOCRACY THROUGH

that relationship is also centered on a dual set of cores and collectives; but here the core is also a vanguard party in which all political authority is vested, but which as a consequence owes its legitimacy to its ability to fulfill its ideologically mandatory responsibilities to the collectives they serve.<sup>9</sup> This clearly is not democracy in the sense that it is understood in liberal democratic states.<sup>10</sup>

Constitutionalism, as the newspapers announce, has  
become the commanding ideology of our time. The

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DELIBERATIVE ELECTIONS (2000) ("There are two fundamental problems in American politics. The first is that most Americans do not believe that elected officials represent their interests. The second is that they are correct." *Id.* at 1.); *see also, e.g.,* Alessandro Bonnano, *The Crisis of Representation: The Limits of Liberal Democracy in the Global Era*, 16 J. OF RURAL STUD. 305 (2000). *See generally,* NADIA URBINATI, REPRESENTATIVE DEMOCRACY: PRINCIPLES AND GENEALOGY (2006). On the issue of leadership cores and their relationship to collectives in illiberal systems, *see, e.g.,* WILLIAM CASE, POLITICS IN SOUTHEAST ASIA: DEMOCRACY OR LESS? 245-63 (2002); *see also,* XIAOWEI ZANG, ELITE DUALISM AND LEADERSHIP SELECTION IN CHINA 35-54 (2004). The issue is ancient in the West. *See, e.g.,* JOSIAH OBER, MASS AND ELITE IN DEMOCRATIC ATHENS: RHETORIC, IDEOLOGY, AND THE POWER OF THE PEOPLE (1989); *see also,* WALTER STRUVE, ELITES AGAINST DEMOCRACY: LEADERSHIP IDEALS IN BOURGEOIS POLITICAL THOUGHT IN GERMANY, 1890-1933 (1973).

<sup>9</sup> The problem of legitimacy in a political system guided by a vanguard core under principles of Leninist institutional organization touches on the sensitive issues of "cults of personality." On cults of personality in the Soviet Union and Eastern Europe. *See* Carol Strong & Matt Killingsworth, *Stalin the Charismatic Leader?: Explaining the 'Cult of Personality' as a Legitimation Technique*, 12 POL., RELIGION & IDEOLOGY 391 (2011). Most interesting is Soviet self-awareness of the issue. *See also* Nikita Khrushchev, Speech to 20th Congress of the C.P.S.U. (Feb. 24-25, 1956), <https://www.marxists.org/archive/khrushchev/1956/02/24.htm> (denouncing the decades long cult of personality around Stalin; ("While ascribing great importance to the role of the leaders and organizers of the masses, Lenin at the same time mercilessly stigmatized every manifestation of the cult of the individual, inexorably combated [any] foreign-to-Marxism views about a 'hero' and a 'crowd,' and countered all efforts to oppose a "hero" to the masses and to the people.")). On cults of personality in China and Vietnam, *see,* Jeremy T. Paltiel, *The Cult of Personality: Some Comparative Reflections on Political Culture in Leninist Regimes*, 16 STUD. IN COMP. COMMUNISM 49 (1983); *see also,* Larry Catá Backer, *Crafting a Theory of Socialist Democracy for China in the 21<sup>st</sup> Century: Considering Hu Angang's Theory of Collective Presidency in the Context of the Emerging Chinese Constitutional State*, 16 ASIAN-PACIFIC L. & POL'Y J. 29 (2014). And perhaps more critically, *see,* Luwei Rose Luqiu, *The Reappearance of the Cult of Personality in China*, 33 E. ASIA 289 (2016).

<sup>10</sup> *See, e.g.,* Louis Henkin, *Constitutionalism, Democracy and Foreign Affairs*, 67 IND. L.J. 879 (1992) (discussing the role of Constitutionalism in American democracy).

principal alternative model, Communism, is dead, and political leaders who used to wave the banner of "socialism" to justify authoritarian repression and human rights violations are silenced. Virtually every state now has a constitution, and every political leader proclaims commitment to constitutionalism, to the rule of law.<sup>11</sup>

Rather in the enhancement of popular participation among those who do not belong to the vanguard party. That participation is connected to an enhanced role in the implementation and organization of the administrative apparatus of the state and the implementation of political goals and objectives that have been developed under the leadership of the vanguard. Within Marxist-Leninist political organizations, it does represent a significant opening meant to permit popular engagement without appearing to signal an (inevitable) movement toward liberal democratic organization.<sup>12</sup> And, of course, that move toward popular participation has been the great challenge of post-Soviet Leninism—to develop a robust theory of democratic engagement that is *sui generis* and nationally contextual—without at the same time appearing to be just another sad effort to veil an anti-democratic apparatus (the great failing of the Soviet experiment<sup>13</sup> and the great peril for China.<sup>14</sup> For China, the evolution of Leninist theory toward popular participation has involved the development of the core-collective binary, mediated through the political theory of the “mass line” (from the people, to the people),<sup>15</sup> as a political foundation for the exercise of leadership by the vanguard.<sup>16</sup> For Cuba, that movement toward democratic ordering has taken its Leninist system in a different direction. It is that difference in

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<sup>11</sup> *Id.* at 885.

<sup>12</sup> See, e.g., Larry Catá Backer, *Chinese Constitutionalism in the “New Era”: The Constitution in Emerging Idea and Practice*, 33 *CONN. J. INT’L L.* 163 (2018) (discussing how China coincides “New Era” Constitutionalism with their socialist structure).

<sup>13</sup> See, e.g., KOLAKOWSKI, *supra* note 2 at 849-881.

<sup>14</sup> See, e.g., Shannon Tiezzi, *The Mass Line Campaign in the 21st Century*, *THE DIPLOMAT* (Dec. 27, 2013), <https://thediplomat.com/2013/12/the-mass-line-campaign-in-the-21st-century/> (noting the danger of ideological campaigns becoming ritualized or a formality).

<sup>15</sup> See, e.g., Graham Young, *On the Mass Line*, 6 *MODERN CHINA* 225-240 (1980).

<sup>16</sup> See, e.g., Larry Catá Backer, *Jiang Shigong 强世功 on “Written and Unwritten Constitutions” and Their Relevance to Chinese Constitutionalism*, 40 *MODERN CHINA* 119-132 (2014).



direction and its connection to principles of popular participation in governance that serves as this essay's the object of examination.

This effort toward the construction (at least in theory) of a socialist democracy (the preferred term among its users), of course, ought not to be understood as a variation of a lurch toward democracy<sup>17</sup> within the structures and world views of liberal democracies. The fundamental at the core of liberal democratic theory that all systems must inevitable transition to liberal democratic principles as the highest expression of political community,<sup>18</sup> tends to serve as the lens through which Chinese political and legal theory is understood in the West.<sup>19</sup> It informs approaches to Cuban engagements with the application of democratic principles within the confines of its own normative principles.<sup>20</sup>

Cuba, usually considered a backwater for the development of robust Leninist theory, or at least merely a quixotic Caribbean variant of East German Sovietism,<sup>21</sup> has since 2011 proven to be increasingly adept at incorporating aspects of theoretical developments of post-Soviet Marxist-Leninist constitutionalism.<sup>22</sup>

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<sup>17</sup> Carl Gershman, *The New Fight: Cuba and the Movement for Democracy*, WORLD AFFAIRS JOURNAL, Winter 2016; Antonio Rodiles & Erik Jennische, *The Mirage of Transition in Cuba* (CATO Institute, ECON. DEV. BULLETIN No. 30, June 27, 2018), <https://www.cato.org/publications/economic-development-bulletin/mirage-transition-cub>; Darren Hawkins, *Democratization Theory and Nontransitions: Insights From Cuba*, 33 COMPARATIVE POLITICS 441 (2001).

<sup>18</sup> For purposes of this essay no position is taken on the validity of these premises or the value of this belief. The point worth emphasizing here is that ideology tends to color analysis of systems grounded in what, to its believers, might be equally compelling ideological principles wholly incompatible to those of liberal democracy.

<sup>19</sup> See, e.g., Tom Ginsburg & Yan Lin, *Constitutional Interpretation in Lawmaking: China's Invisible Constitutional Enforcement Mechanism*, 63 AM. J. COMP. L. 467 (Spring 2015).

<sup>20</sup> See, Nick Miroff, *Is Cuba on the Verge of Democratic Reform?*, THE WASHINGTON POST (Mar. 5, 2015), <https://www.washingtonpost.com/news/worldviews/wp/2015/03/05/is-cuba-on-the-verge-of-major-political-reform/>.

<sup>21</sup> See, e.g., Larry Catá Backer, *Central Planning Versus Markets Marxism: Their Differences and Consequences for the International Ordering of State, Law, Politics, and Economy*, 32 Conn. J. of Int'l L 1 (Fall 2016).

<sup>22</sup> Again, these terms are not meant to be understood in their sense within a liberal democratic political model. They are meant, instead, to express the possibility of

More importantly it has appeared successful, despite substantial resistance from its political enemies abroad, in developing mechanisms for its implementation through three cycles of political-economic development in the post Fidel Castro Era.<sup>23</sup> It has also done so despite a singular lack of the sort of robust theoretical discussions within its own Communist Party apparatus that has marked developments in China. Ironically, the roots of Cuba's own journey toward a form of institutionally embedded popular participation (again incomprehensible when measured by the premises of Western liberal democracy), lie in the practices of the Revolutionary government before it became formally Leninist. These roots, grafted onto the structures of formal consultation built into the state apparatus after the first Cuban Communist Party Congress, have, since 2011, opened the door to what may be understood now as Cuba's efforts at Socialist Consultative Democracy 2.0.

It is in that context that the question of the extent to which Cuba's authoritarian State is changing or, within some meaningful context, changing, and by changing inching toward democracy, becomes more interesting. The answer to this question is 'Yes!' – but on its own terms.<sup>24</sup> The answer is also 'No!', if measured against the principles and expectations of liberal democracy.<sup>25</sup> To that end, consider the early efforts of the post-revolutionary regime to develop structures of mass democratic participation under the guidance of a leadership core. If we consider the effects of

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the recognition and development of democratic principles within the structures of Marxist Leninist political model. See Larry Catá Backer, *Party, People, Government, and State: On Constitutional Values and the Legitimacy of the Chinese State-Party Rule of Law System*, 30 B.U. Int'l L.J. 331 (2012) (for a discussion in the context of Chinese Marxist Leninist constitutionalism).

<sup>23</sup> See, e.g., Ramón I. Centeno, *The Cuban Regime After a Decade of Raúl Castro in Power*, 9 MEXICAN L. REV. 99-126 (2017); CARMELO MESA-LAGO & JORGE PÉREZ-LÓPEZ, *CUBA UNDER RAÚL CASTRO: ASSESSING THE REFORMS* (2014); Marc Frank, *Chronology: Raul Castro's Road to Reform in Cuba*, REUTERS (Apr. 13, 2011), <https://www.reuters.com/article/us-cuba-reform-chronology/chronology-raul-castros-road-to-reform-in-cuba-idUSTRE73C70C20110413>.

<sup>24</sup> See Jorge Dominguez, *Constitución y Constitucionalismo en Cuba: Introducción al Dossier y Reflexiones*, CUBAN STUD. 45 (2017): 3-13 (for useful reflections).

<sup>25</sup> See Robert Post & Reva Siegal, *Democratic Constitutionalism*, Constitution Center Whitepaper, available at <https://constitutioncenter.org/interactive-constitution/white-pages/democratic-constitutionalism> (for a straightforward consensus description).

institutionalizing this mechanism for popular participation in the tightly managed National Assembly of Popular Power. These together, we will suggest, constitute Cuba's efforts to construct an initial form of Socialist Consultative Democracy (the initial or 1.0 version); an effort that suffered from its own internal failings and contradictions. We will then turn to the efforts to build on this architecture after 2011 to develop a revised version that drew on part practice and experiments and reorganized them in a distinctively systematic way. This is what we have called Cuba's Socialist Consultative Democracy 2.0,<sup>26</sup> the most refined expression of which was evidenced in the Cuban Constitutional Reform processes of 2018-2019.

We note that the conception of the problem posited, and its conceptual evolution that follows is highly theoretical, though hopefully not entirely abstract. More importantly, as we will try to show, the conceptualization of the problem has generated a substantial amount of practical approaches but is still in search of a unifying theory compatible with the Cuban political-economic model it is meant to serve. We hope to take a step in that direction here. To take that step requires, at its core, the recognition of a possibility, within Marxist-Leninist political organization, that democratic expression might be built along quite different lines than that deemed inevitable under the principles of Western liberal democracy. That is, that at least in theory, it is possible to try to construct system of endogenous democracy—grounded in the practice of consultation and approbation—in contradistinction to principles of exogenous democracy on which Western liberal democracies are founded. Sadly, for Cuba, this theory remains (as it tends to in Marxist-Leninist systems) far ahead of practice.

*A. The Problem—Developing a Possibility of Popular Participation in Illiberal Constitutional States.*

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<sup>26</sup> Larry Catá Backer, Flora Sapio, & James Korman, *Popular Participation in the Constitution of the Illiberal State—An Empirical Study of Popular Engagement and Constitutional Reform in Cuba and the Contours of Cuban Socialist Democracy 2.0*, 34 EMORY INT'L L. REV. (forthcoming 2019).

Let us consider the 1st Cuban Communist Party (PCC) Congress of 1975<sup>27</sup> as the template for the ideological and constitutional changes that followed from the 7th PCC Congress in 2016. As we will see in more detail below, most of the structural elements of the 7th PCC Congress and the forms of constitutional reform that followed were first attempted in the context of the development of the PCC's first comprehensive ideological line,<sup>28</sup> and the transposition of that line into the 1976 Cuban constitution. In both cases, significant ideological work of the PCC was immediately followed by its articulation in the state constitution. More importantly, in both cases, the process included a well-managed intervention of popular engagement and validation. This included the solicitation of mass reaction to the circulating drafts of key documents and a popular plebiscite.

What was missing from the 2016-2019 reform effort, including its constitutional dimension, was what had been a key element of popular participation—the organization of mass acclamation at a

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<sup>27</sup> In Cuba, like China, the Communist Party leadership meets periodically to hear reports and to pass on changes to policy and the political line. In China, the National Congress draws together selected delegates from the CCP's membership base. Attendees are required to elect candidates to senior party positions, consider the general secretary's report, and decide on amendments to the CCP's constitution. While the meeting is the highlight of the Chinese political calendar, at which the general line for the CCP is established and celebrated, outcomes have already been decided before the event, according to Roderic Wye, associate fellow of the Asia programme at Chatham House. "The Congress is a celebration of decisions that have already been taken that we don't know about from the outside [of the party]," Wye told Al Jazeera."

David Child, *Explained: National Congress of China's Communist party*, AL JAZEERA (Oct. 17, 2017). <https://www.aljazeera.com/news/2017/10/explained-national-congress-china-communist-party-171017140021234.html>.

<sup>28</sup> Within Leninist systems an ideological line includes the policies that will be followed as an application of the principles of the political-economic system that will be emphasized in a contemporary context. See Larry Catá Backer, *The Rule of Law, The Chinese Communist Party, and Ideological Campaigns: Sange Daibiao (the "Three Represents"), Socialist Rule of Law, and Modern Chinese Constitutionalism*, 16 *TRANSNAT'L L. & CONTEMP. PROBS.* 29-102 (2006). They have been criticized for the tendency within some Marxist-Leninist States to use them as a screen behind which the individual discretion of a leading personality is actually the principal driver of politics. See, e.g., David S. Law & Mila Versteeg, *Sham Constitutions*, 101 *CALIF. L. REV.* 863 (2013).

rally called for that purpose.<sup>29</sup> The 1st PCC Congress and the resulting modalities of popular affirmation appeared to mark a turning point in the practice of early Caribbean Marxist socialist democracy.<sup>30</sup> That was the last time that the mechanics of popular affirmation were used, and only as a supplement to a more conventional use of voting.

Yet mass acclamation played a decisive role in the early stages of post-revolutionary Cuba,<sup>31</sup> and it has never been rejected as inimical to the core ideology of the Cuban Leninism. Popular acclamation at large gatherings of the people was a first effort to find a way to produce democratic practice that avoided what was increasingly seen as the ideologically corrupt system of popular voting. It served as the first iteration of a process that sought to do two things. The first was to distinguish the forms of democratic engagement in Leninist states from that of Western liberal democracies. The idea was that conventional voting was itself ideologically contaminated with bourgeois principles of class exploitation and that an alternative mode of democratic expression was needed. The second was to embed principles of class struggle—and of the primacy of the worker-revolutionary axis—into the expression of democratic engagement.<sup>32</sup> The development

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<sup>29</sup> Popular affirmation or acclamation is not unknown in liberal democratic systems. For a discussion in the context of plebiscites, *see, e.g.*, LAWRENCE T. FARLEY, *PLEBISCITES AND SOVEREIGNTY: THE CRISIS OF POLITICAL ILLEGITIMACY* (Routledge, 2019). They have been criticized for their tenuous relationship with the legitimacy and protections offered by democratic government. *See, e.g.*, REFERENDUM DEMOCRACY: CITIZENS, ELITES AND DELIBERATION IN REFERENDUM CAMPAIGNS (Matthew Mendelsohn, Andrew Parkin eds. 2001). Plebiscites in other non-liberal democratic states have also parallel challenges. *See* John Londregan & Andrea Vindigni, *Authoritarian Plebiscites*, paper (2008), <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.625.7491&rep=rep1&type=pdf>.

<sup>30</sup> It should be emphasized at this early point that the theory and principles underlying Marxist Leninist acts of mass affirmation are built on quite distinct principles from those of liberal democratic plebiscites or other forms of mass referendum. Indeed, much of the efforts of the Cuban revolutionary government was centered on distinguishing its mass affirmations from the practices of liberal democratic states. *See* discussion *infra* at text and notes.

<sup>31</sup> THE FIRST AND SECOND DECLARATIONS OF HAVANA: MANIFESTATIONS OF REVOLUTIONARY STRUGGLE IN THE AMERICAS ADOPTED BY THE CUBAN PEOPLE (Mary-Alice Waters, ed, 1962).

<sup>32</sup> *See, e.g.*, *Building a (Very) New Road to Socialism? Cuba in the 21st Century*, NODAL NOTICIAS DE AMERICA LATINA Y EL CARIBE (Dec. 4, 2017),

of these mechanisms, of Cuban Socialist Consultative Democracy 1.0, is the object of this section.

*B. The Asamblea General Nacional del Pueblo de Cuba and the Origins of the Socialist Plebiscite 1960-1962*

The initial approach of the revolutionary government<sup>33</sup> to resolving the problem of the democratic participation of the “collective” in a system developed under the mandatory leadership of a ruling “core” was to attempt an exercise in direct sovereign democracy by constituting a General National Assembly of the Cuban People (Asamblea General Nacional del Pueblo de Cuba).<sup>34</sup> It was used in two instances between 1960 and 1962, and produced two key ideological instruments that defined Cuba's external relations and the internal structures for the expression of sovereign authority. It appeared in vestigial form at the end of the 1st PCC Congress as part of a larger effort to create the Party-State governance architecture (as the sovereign act of delegating authority to both Party and to its popular expression) no longer in general mass assemblies but in the institutionalization of the mass will in the National Assembly of Popular Power. Yet that transition ought not to take away from the importance of the development of core political principles around the idea of mass assemblies, the suspicion of popular voting, and the conception of the membership of the polity that, under the direction of the vanguard, was fit to exercise mass political power.

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<https://www.nodal.am/2017/12/building-very-new-road-to-socialism-cuba-in-the-21st-century/>.

<sup>33</sup> It is useful to remember that the revolutionary government established after January 1, 1959 was essentially a military government that then slowly transformed itself into a military-civilian apparatus whose institutions were not formalized until 1976. See, e.g., Irving Louis Horowitz, *CUBAN COMMUNISM* 482, 482-511 (Irving Louis Horowitz and Jaime Suchlicki eds., 10th ed. 2001).

<sup>34</sup> Tariq Ali, *CASTRO: THE DECLARATIONS OF HAVANA* vii, xii (Tariq Ali, ed., Verso, 2018) (In later years Fidel Castro explained that the Havana Declarations: “said that an armed struggle: should not be embarked on if there existed legal and constitutional conditions for a peaceful civic struggle. That was our thesis in relation to Latin America.”).

i. First Asamblea General Nacional del Pueblo de Cuba—  
2 September 1960.

The first instance of a practice (however crude) of popular direct democratic action appeared at the end of a mass assembly on 2 September 1960 in Havana.<sup>35</sup> It marked the rupture of relations with the United States.<sup>36</sup> The event is inscribed in the political consciousness of the post-revolutionary government in a quite specific way:

In a plaza filled with the populace all demonstrating their unconditional support for the triumphant Revolution of January 1, 1959, there raised a unified powerful voice, then Prime Minister Fidel Castro Ruz made known the First Declaration of Havana. That convincing response from the Cuban Revolution to the Organization of American States (OAS) was then approved unanimously. The Cuban people decide to confront the declarations of that organization that up to then responds to the interests of the United States.<sup>37</sup>

This was no ordinary gathering of supporters. The mass event was quite deliberately framed as a constitutive gathering with sovereign effect as a General National Assembly of the Cuban People "an unprecedented event in the annals of Latin America, [which] was legitimately constituted as a source of democratic power, September 2, 1960."<sup>38</sup>

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<sup>35</sup> *Id.* at 79.

<sup>36</sup> *Id.* at xi.

<sup>37</sup> Fidel Castro: "¡Cuba es el territorio libre de América!", CUBADEBATE (Sept. 7, 2017), <http://www.cubadebate.cu/especiales/2017/09/02/fidel-castro-cuba-es-el-territorio-libre-de-america/#.XVR1E8oXafB> ("En una plaza repleta de pueblo que demostraba su apoyo incondicional a la Revolución triunfante del 1ero de enero de 1959, se levantaba una voz potente, el entonces primer ministro Fidel Castro Ruz da a conocer la Primera Declaración de La Habana. Una respuesta convincente de la Revolución Cubana a la Organización de los Estados Americanos (OEA) es aprobada por unanimidad. El pueblo cubano decide enfrentarse a las declaraciones de esta organización que hasta su actualidad responde a los intereses de los Estados Unidos.").

<sup>38</sup> *Id.* ("Asamblea General Nacional del Pueblo de Cuba, suceso inédito en los anales de Latinoamérica, fue legítimamente constituida como fuente de derecho democrático, 2 de septiembre de 1960.").

Two fundamentally important premises were articulated around the Havana Declaration of relevance to the issue of democratic accountability in (for this case) an emerging Leninist system. The first touched on the mechanisms of direct democracy in a large modern state. It centered both on the theory of democratic action at a mass event, as well as the mechanics for determining under what conditions such sovereignty exercising events might be understood to exist. This was the immediate problem facing the revolutionary government as it sought to confront the need to act. The second was a longer-term concern. This centered on the role and mechanics of voting, of elections, within a revolutionary state suspicious of voting as a technique for class-based domination.

ii. The mechanics of direct democracy.

With respect to the mechanics of direct democracy, the premise of a popular assembly was meant to look both backwards to overcome Cuba's past and forwards to provide a model for other Latin American (and eventually all developing) states. It was, in its own way, self-consciously universal in its pretensions—at least with respect to the conditions and realities of Latin America.

Our small homeland today represents interests that go beyond our borders. The destiny of our little homeland is to be the beacon that enlightens the millions and millions of men and women just like us, who in America today suffer the same as we suffered yesterday! This glorious destiny has touched us and we will be a light that will never be extinguished, a light that will become brighter each day and whose reflections will reach farther and farther on the lands of sister America!<sup>39</sup>

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<sup>39</sup> Fidel Castro Ruz, Commander in Chief of Cuba, Speech Delivered at the People's Assembly (Sept. 2, 1960), <http://www.cuba.cu/gobierno/discursos/1960/esp/f020960e.html> ("Nuestra patria pequeña representa hoy intereses que se salen de nuestras fronteras. ¡A nuestra patria pequeña le ha tocado el destino de ser el faro que ilumine a los millones y millones de hombres y mujeres igual que nosotros, que en la América sufren hoy lo mismo que nosotros sufríamos ayer! ¡Nos ha tocado ese destino glorioso y nosotros seremos una luz que no se apagará nunca, una luz que será



It looked backwards by interposing a popular assembly against the tradition of what Fidel Castro called the “assembly of sergeants” (with reference to the long history of control by the then recently overthrown Batista dictatorship).<sup>40</sup> It was meant to interpose the performance of democratic and sovereign prerogatives through a public assembly of people acting on instinct – and also guided with respect to the details of its action by and through the leadership of the revolutionary (not yet Marxist Leninist) government. That government, of course, acquired legitimacy through force of arms<sup>41</sup> – it was important to cement that initial armed legitimacy by an expression of assent by a reunion of a group of people large and potent enough to have rejected and undone that government (at great cost but possible as later experiences in Egypt and Ukraine would make clearer).<sup>42</sup>

It would have been logical that in any meeting of foreign ministers Cuba would not be condemned; It would have been logical that in any meeting of foreign ministers the United States ought to have been condemned for its aggressions against a small country. The absurdity was that the small country would be condemned by the foreign ministers, precisely to serve the designs of the powerful aggressor country. And that is what we are going to discuss today in this national general assembly of the people of Cuba.

First, why is this a general assembly of the people? What

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cada día más brillante y cuyos reflejos llegarán cada día más lejos sobre las tierras de la América hermana!”).

<sup>40</sup> See generally Louis A. Perez, *Army Politics, Diplomacy and the Collapse of the Cuban Officer Corps: the ‘Sergeants’ Revolt’ of 1933*, 6 J. OF LATIN AM. STU 59 (1974).

<sup>41</sup> See, e.g., ARNOLD POMERANS, K. S KAROL, *GUERRILLAS IN POWER: THE COURSE OF THE CUBAN REVOLUTION* (Hill & Wang, 1st ed., 1970).

<sup>42</sup> See LINCOLN A. MITCHELL, *THE COLOR REVOLUTIONS* (University of Pennsylvania Press, 2012) (on the color revolution in the Ukraine in this context). See REX BRYNEN, PETE W. MOORE, BASSEL F. SALLOUKH & MARIE-JOELLE ZAHAR, *BEYOND THE ARAB SPRING: AUTHORITARIANISM & DEMOCRATIZATION IN THE ARAB WORLD* (Lynn Reinner Pub., 2012); Lisa Anderson, *Demystifying the Arab Spring: Parsing the Differences Between Tunisia, Egypt, and Libya*, 90 FOREIGN AFFAIRS 2, 2-7 (2011) (on the Arab Spring in Egypt in this context).

does this mean about a general assembly of the people? It means, in the first place, that the people are sovereign, that is to say that sovereignty is rooted in the people and that all powers emerge from it. (Applause). The people of Cuba are sovereign. No one could argue that the majority of the people are represented here; No one could argue that the people are represented here. In the annals of the history of our country such a crowd never met; In the annals of the history of our country, such an act was never seen; in the annals of the history of America such a multitude never met; In the annals of the history of America a similar act was never seen. (Applause).

We Cubans can speak to America today; We Cubans can speak to the world today. A small group of political "sergeants" has not gathered here; here a handful of mercenaries have not gathered; Here the populace has gathered today! (Applause.) Those who want to know what a united populace, come and see this! Those who want to understand a democratic people, come and see this! Those who want to see what a people ruling their own destinies, come and see this!; those who want to know what a democracy is, come and see this!<sup>43</sup>

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<sup>43</sup> Castro Ruz, *supra* note 39 ("Era lógico que en cualquier reunión de cancilleres no se fuese a condenar a Cuba; era lógico que en cualquier reunión de cancilleres se condenase a Estados Unidos por sus agresiones a un país pequeño. Lo absurdo era que el país pequeño fuese a ser condenado por los cancilleres, precisamente para servir los designios del poderoso país agresor. Y eso es lo que vamos a discutir hoy en esta asamblea general nacional del pueblo de Cuba.

En primer lugar, ¿por qué es esta una asamblea general del pueblo? ¿Qué quiere decir esto de una asamblea general del pueblo? Quiere decir, en primer lugar, que el pueblo es soberano, es decir que la soberanía radica en el pueblo y que de él dimanaban todos los poderes (APLAUSOS). El pueblo de Cuba es soberano. Nadie podría discutir que aquí está representada la mayoría del pueblo; nadie podría discutir que aquí está representado el pueblo. En los anales de la historia de nuestra patria jamás se reunió semejante multitud; en los anales de la historia de nuestra patria jamás se vio un acto semejante; en los anales de la historia de América jamás se reunió semejante multitud; en los anales de la historia de América jamás se vio un acto semejante (APLAUSOS).

Los cubanos podemos hoy hablarle a América; los cubanos podemos hoy hablarle al mundo. Aquí no se ha reunido un grupito de "sargentos" políticos; aquí no se ha reunido un puñadito de mercenaries; ¡aquí se ha reunido hoy el pueblo!

And thus, the general national assembly of the *people* was juxtaposed against the assemblies of contemporary democracy and dictatorship—the assemblies of states beholden to a great power, and the assemblies of national actors beholden to a "primus." Against these, which were characterized as mimicking the forms of democracy,<sup>44</sup> Fidel Castro offered the performance of the masses themselves, gathered together in the largest open space in Havana—as the incarnation of the genius of the people and vested by that reason with the full sovereign authority of the political community self-constituted as the Cuban Republic.<sup>45</sup>

To be clear, the object of that characterization was neither to defend it nor to reject it, but rather to hold it up as an important moment in the development of Caribbean Marxist notions of what in China might have been eventually be come to be understood as the mass line.<sup>46</sup> But the mass line in Cuba was from the start practiced in an entirely different way. Given the nature of the revolutionary government—revolution first and political self-conception after—it makes sense to understand that the revolutionary government would first draw on Western principles of pure democracy, likely sieved through glimmerings of Rousseau (as they might have understood them).

The notion of popular assembly was then generalized as a basic theory of democratic governance of states in their external relations. To that extent, the ideology began to conflate the notions of popular assent with that of the nature of representation in states. The result was curious in the sense that it suggested that representation on the model of liberal democratic states was no representation at all; and that the revolutionary leadership (e.g., vanguard leadership model emerging in the post-1959 governance apparatus of Cuba)

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(APLAUSOS.) Los que quieran saber lo que es un pueblo reunido, ¡que vengan y vean esto!; los que quieran saber qué es un pueblo democrático, ¡que vengan y vean esto!; los que quieran ver lo que es un pueblo rigiendo sus propios destinos, ¡que vengan y vean esto!; los que quieran saber qué es una democracia, ¡que vengan y vean esto!"

<sup>44</sup> For a discussion of Fidel Castro on liberal democracy, see, e.g., Juan Carlos Medel, *Cuban Democracy in the Speeches of Fidel Castro, 1959–1976*, 11, 2 INT'L J. OF CUBAN STUD. 332 (2019).

<sup>45</sup> Castro Ruz, *supra* note 39.

<sup>46</sup> See Tiezzi, *supra* note 14; Young, *supra* note 15; Backer, *supra* note 16.

provided a more authentic model of representative and democratic action.

It is a principle, it is an elementary principle of public law, that no state official can commit his country in acts of international law, if that act does not have the approval of the people. A representative of any country does not go to an international meeting in its own right. Nobody has the right on their own to compromise the international conduct of a country, and those who go without representing the countries, to compromise the behavior of the countries, do not commit such behavior. Any act that is done over the sovereign will of the people, is a null act, it lacks validity. Therefore, the validity of the declaration of Costa Rica does not depend on the will of the foreign ministers, it depends on the will of the people, and one cannot come to the Cuban people with the story that this declaration has any validity merely because they claim to represent the peoples, No! We have to prove to ourselves that this is the feeling of the people. (Applause) And we ask the government of Venezuela, the government of Peru, the government of Chile, the government of Argentina, the government of Brazil, the government of Ecuador, the government of Costa Rica; that is, we ask, respectfully, the governments of America to summon their peoples in a general assembly and submit to them the Declaration of Costa Rica. (Applause).<sup>47</sup>

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<sup>47</sup> Castro Ruz, *supra* note 39 ("Es un principio, es un principio elemental de derecho público, que ningún puede comprometer a su país en actos de derecho internacional, si ese acto no cuenta con la aprobación del pueblo. Un representante de cualquier país no va a una reunión internacional por su propio derecho. Nadie tiene derecho por su propia cuenta a comprometer la conducta internacional de un país, y los que van sin representar a los países, a comprometer la conducta de los países, no comprometen tal conducta. Todo acto que se haga por encima de la voluntad soberana de los pueblos, es un acto nulo, carece de validez. Por tanto, la validez de la declaración de Costa Rica depende no de los cancilleres, depende de los pueblos, y al pueblo de Cuba no le pueden venir con el cuento de que esa declaración tenga validez, porque ellos dicen representar a los pueblos, ¡no!, a nosotros hay que probarnos que ese es el sentimiento de los pueblos (APLAUSOS). Y nosotros le pedimos al gobierno de Venezuela, al gobierno de Perú, al gobierno de Chile, al gobierno de Argentina, al gobierno de Brasil, al gobierno de Ecuador, al gobierno de Costa Rica; es decir, les pedimos, respetuosamente, a los gobiernos

That theory was then meant to serve not just the Cuban context, but rather, the model for all (small) republics, or at least those who were seeking liberation from the constraints of an international system that, from the perspective of the Cuban revolutionary government, was bound in dependency to a master state. "And he who fails to gather together the people, he is not a democrat; he who does not consult the people, he is not a democrat; to be a democrat one has to consult the people. That only happens in Cuba!<sup>48</sup> Notice here the intimate connection between mass assemblies and the guidance of the vanguard, already well developed, though not using the traditional discursive tropes of Soviet Leninism . . . yet.

#### iv. The theory of voting in revolutionary governments.

But inherent as well in the notion of popular expression in mass assemblies, were the notions of authentic democracy and of the role of voting and thus of authentic representation). Fidel Castro was at pains to describe this to the Assembly itself in September 1960:

And this [assembly] is a representation, because here there is no "pucherazo" [vote management by the principal parties and connected with "caciquismo"], no fraud, no vote buying, no political sergeant, no machinery, no bottle, and there is nothing; This is pure! (Applause.) This is a democracy free of impurities, free of impurities, it is a truly "pasteurized" democracy (LAUGHTER AND APPLAUSE). And do not tell us that the other is more democracy than this; that the democracy of the political sergeant, of the "pucherazo", of the bottle, of politicking, of bribery, of the purchase of consciences, of coercion, of the political machinery, is purer than this. Can there be anything purer than a meeting of the whole people? (EXCLAMATIONS OF: "No!") Did someone

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de América que convoquen a sus pueblos en asamblea general y les sometan la Declaración de Costa Rica (APLAUSOS).").

<sup>48</sup> *Id.* ("Y el que no reúna al pueblo, el que no reúna al pueblo, ¡ese no es demócrata!; el que no consulte al pueblo, ¡ese no es demócrata! ¡Para ser demócrata hay que consultar al pueblo! (EXCLAMACIONES DE: "¡Eso solo se da en Cuba!")").

bring the town by force? (EXCLAMATIONS FROM: "No!") Did someone pay the town to come? (SHOUTING: "No!") The one who came here and is passing the work that you are going through, because we know that in a crowded crowd there are many people who faint, and there are many people . . . ].<sup>49</sup>

Again, the juxtaposition between what the Cuban government painted as a liberal democracy with elaborate forms but no real substance against the purity of a direct expression of democratic action through assemblies of the masses at which all of the perceived deficiencies of the liberal order were absent. But of course, this would be possible only because the element of spontaneous assembly (something truly revolutionary in the sense of the Orange Revolution in Ukraine or the Arab Spring in Egypt)<sup>50</sup> was avoided. Spontaneous assemblies were revolutionary in the sense that their aim was to replace the ruling order. Castro's notion that a popular assembly physically assembled could be democratic within a revolutionary governance order extend only so far. It is legitimacy extended no farther than the ability of the political vanguard to manage them. In the case of Cuba, that vanguard acquired the legitimate mantle of leadership and the authority to guide by virtue of a military triumph.

The text of the Havana Declaration itself elaborated what was to be the initial conceptual position of what would emerge as Caribbean Marxism. Its sixth paragraph expressed "the conviction that democracy cannot consist only in the exercise of an electoral vote, which is almost always fictitious and is managed by large landowners and professional politicians, but in the right of citizens to decide, as now does this General Assembly of the People of Cuba, their own destinies. Democracy, moreover, will only exist in America when the people are really free to choose, when the

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<sup>49</sup> *Id.* ("Y el que no reúna al pueblo, el que no reúna al pueblo, ¿ese no es demócrata!; el que no consulte al pueblo, ¿ese no es demócrata! ¡Para ser demócrata hay que consultar al pueblo! (EXCLAMACIONES DE: "¡Eso solo se da en Cuba!")").

<sup>50</sup> See *supra* text accompanying note 42.

humble are not reduced-by hunger, social inequality, illiteracy and legal systems-to the most ominous impotence."<sup>51</sup>

The position reflects what has crystallized into the well-known position, first of the Soviet bloc, and then of developing states with respect to the realization of human dignity (expressed in the language of rights) and its relationship to the fundamental notion of democratic expression through voting and similar mechanisms developed at the core of theories of Western liberal democracies. That approach is premised on the notion that liberal democracies are inherently corrupt because of the effects of economic subordination on the free will of voters. As a consequence, economic rights are central and paramount to the attainment of political rights. Political rights cannot be bootstrapped into existence through its mechanics, especially the mechanics of elections. As a consequence, centering principles of democracy around voting in the absence of economic rights which liberates individuals from the effective (direct or indirect) control of hierarchy (defined in any number of ways) amounts to a subterfuge and the substitution of political theater for democratic politics.

And, of course, what follows is the need for a focus on economic rights, the centrality of a leading force installed for that purpose, and the central objective of government to guide its people toward liberation. Most importantly, it reconstitutes the people (worthy of exercising sovereignty) to those already committed to the project of economic liberation (understood in the Marxist sense for the most part), and excluding all other individuals as unsuitable for the exercise of popular sovereignty under the leadership of a "right acting" vanguard.

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<sup>51</sup> Castro Ruz, *supra* note 39 ("la convicción cubana de que la democracia no puede consistir sólo en el ejercicio de un voto electoral, que casi siempre es ficticio y está manejado por latifundistas y políticos profesionales, sino en el derecho de los ciudadanos a decidir, como ahora lo hace esta Asamblea General del Pueblo de Cuba, sus propios destinos. La democracia, además, sólo existirá en América cuando los pueblos sean realmente libres para escoger, cuando los humildes no estén reducidos — por el hambre, la desigualdad social, el analfabetismo y los sistemas jurídicos —, a la más ominosa impotencia.").

v. Second Asamblea General Nacional del Pueblo de Cuba—4 February 1962.

The Second National General Assembly was organized on 4 February 1962, in response to yet another international rebuff of the Cuban revolutionary government by other Latin American states. Specifically, the trigger was the action taken by the OAS at its January 1962 meeting, at which the organization voted for additional sanctions against Cuba, the day after U.S. President Kennedy signed Executive Order No. 3447, more firmly establishing what then became known as the Cuban Embargo.<sup>52</sup> "Today, this General Assembly is meeting for the second time, as a sovereign organ of the will of the Cuban people; and meets to give full response to the maneuver, the scheme, the plot of our enemies in Punta del Este."<sup>53</sup>

The event and its context, then, assumes a fundamental place within the development of the principles and orientations of the Cuban state both internally and in its relationship with its neighbors. Those principles, and the context in which they arose, also resonated with the Cuban leadership and their allies in the Caribbean, in the midst of the 7th PCC Congress and the development of the *Reconceptualization Of The Political And Economic Model* along with the constitutional reform that necessarily followed. In 2017, an official Cuban organ noted:

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<sup>52</sup> PATRICK J. HANEY & WAT VANDERBUSH, *THE CUBAN EMBARGO: THE DOMESTIC POLITICS OF AN AMERICAN FOREIGN POLICY* 18 (U. Pittsburgh Press, 2005) (discussing the origins of the Cuban Embargo). *But see* Ted Henkin & Archibald Ritter, *Overcoming Cuba's Internal Embargo*, *CURRENT HISTORY*, Feb 2015, at 73 (discussing what has been referenced as Cuba's internal embargo).

<sup>53</sup> Fidel Castro Ruz, Commander in Chief of Cuba, Speech Delivered at the Second National Assembly (Feb. 4, 1962) (transcript available at: <http://www.cuba.cu/gobierno/discursos/1962/esp/f040262e.html>) ("Se reúne por segunda vez, con carácter de órgano soberano de la voluntad del pueblo cubano, esta Asamblea General en el día de hoy; y se reúne para dar cabal respuesta a la maniobra, a la conjura, al complot de nuestros enemigos en Punta del Este."); *see generally* William Tell, *Segunda Declaración de La Habana: Por su Única, Verdadera e Irrenunciable Independencia*, *CUBADEBATE* (Feb. 4, 2017), <http://www.cubadebate.cu/especiales/2017/02/04/segunda-declaracion-de-la-habana-por-su-unica-verdadera-e-irrenunciable-independencia/#.XVd2U8oXafA>.



More than a million Cubans filled the Plaza de la Revolución [formerly the Plaza de la República] answering the call for assembly made by the Revolutionary Government for the purpose of constituting the Second National General Assembly of the People, which approved the Second Declaration of Havana, which reaffirmed our dignity as a free, independent and sovereign nation, while proclaiming the projection and Latin Americanist vocation of the Cuban Revolution.<sup>54</sup>

That was certainly echoed by the friendly elements of the then government of Venezuela through its press organs: "With the passage of time the [2nd Declaration of Havana] has become a true affirmation of principles advancing. Over the years, the Declaration became a true affirmation of principles, in favor of the projection and Latin American character of the Cuban Revolution with a deep respect for the socialist and internationalist character of the Cuban political process.<sup>55</sup>

One of the most interesting elements of the Second General National Assembly was the way in which it affirmed the notion of people grounded in class and political solidarity in a way that effectively permitted the reconstitution of "the people" without respect to nationality. "With us there are many Latin Americans who visit our country or participated in the Peoples Conference in Havana (applause), but they should not be just spectators. We propose to the National General Assembly of the People that Latin Americans not be spectators, but also have the right to vote along with the people of Cuba, the Declaration of Havana (PROLONGED APPLAUSE AND EXCLAMATIONS OF: "Fidel, Fidel!")<sup>56</sup> This

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<sup>54</sup> Tell, *supra* note 53 ("más de un millón de cubanos colmaron la Plaza de la Revolución al llamado que hiciera el Gobierno Revolucionario para constituir la Segunda Asamblea General Nacional del Pueblo, la cual aprobó la Segunda Declaración de La Habana, que reafirmó nuestra dignidad como nación libre, independiente y soberana, al tiempo que proclamaba la proyección y vocación latinoamericanista de la Revolución Cubana.").

<sup>55</sup> *Cuba celebra los 55 años de la II declaración de La Habana*, TELESUR (Feb. 4, 2017), <https://www.telesurtv.net/news/Cubacelebra-los-55-anos-de-la-II-declaracion-de-La-Habana-20170202-0032.html>.

<sup>56</sup> Castro Ruz, Commander in Chief of Cuba, Speech delivered at the Second National Assembly (Feb. 4, 1962).

provided the kernel of the union of mass national solidarity with regional integration that many decades later found expression in the Socialist Regionalism of the Cuba-Venezuela lead Bolivarian Alliance.<sup>57</sup>

The focus was not anarchic. Rather it furthered the emerging principles of Latin American solidarity at the heart of Caribbean Marxism.<sup>58</sup> That solidarity posited a common supra-sovereign alignment of Latin American states in opposition to the United States and its purported domination of the hemisphere:<sup>59</sup> "No Latin American people are weak, because they form part of a family of 200 million brothers who share the same miseries, harbor the same sentiments, and have the same enemy, who all dream of a better destiny, and which count on the solidarity of all honest men and women worldwide."<sup>60</sup>

Taken together, the two General National Assemblies produced an ideological urtext from which the PCC would find it difficult to reject. The revolutionary government had acquired popular legitimacy through victory in an armed conflict joined only by a minority of Cubans. Such a legitimacy, however, had to be sanctioned by a meeting large enough to allow those in attendance to either approve or the revolutionary government, or else to undo it. By obtaining affirmations of approval at the two Havana rallies, the armed nucleus of the Cuban Revolution posited itself not only as the political representative of the people, but as its acting core.

The Cuban Revolution had rejected notions of political representation by candidates from competing parties chosen through the casting of ballots. Such a rejection was based on the vulnerability of electoral processes to exogenous and endogenous interference. Electoral fraud, intervention by agents of foreign governments and by economic lobbies, the adverse impacts of socio-economic malaise on popular awareness of and engagement

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<sup>57</sup> See generally, Larry Catá Backer & Augusto Molina, *Cuba and the Construction of Alternative Global Trade Systems: ALBA and Free Trade in the Americas*, 31 U. PA. J. INT'L L. 679 (2010).

<sup>58</sup> This was a theme well developed in the speeches of Fidel Castro. See, e.g., Fidel Castro, *De Seattle al 11 de Septiembre* 101-129 (Tlalaparta ed., 2002).

<sup>59</sup> See Backer & Molina, *supra* note 57.

<sup>60</sup> *Id.*

in governance were seen as factors impeding the formation and manifestation of a truly free will. To these perceived ills, the revolutionary government found the antidote of collective decision-making through acclamation.

The resulting *demos*—as opposed to the *ochlos*<sup>61</sup>—was defined not along the lines of class divisions, in a Marxist sense. In a more classically Socialist fashion, political citizenship belonged to those willing to eliminate all the factors leading to economic and social subordination, achieve individual and collective self-determination, and who supported the endeavors of the more active nucleus of the Cuban Revolution. Such a conception of the *demos* was transnational, as political citizenship was earned not by virtue of legal citizenship, but by the mere belonging to any of the social groups bearing the negative externalities of regional economic and social development policies, and by a rejection of such an individual and collective condition. Political citizenship cut across the lines of national borders, ideologies and structures of governance, including persons born in Latin America, but also – ideally – U.S. citizens, and persons living in other continents. If participation to mass rallies granted political citizenship, then such participation *could not* be entirely spontaneous. Exclusion of those unwilling to participate in the Revolution was proven by nonattendance to the rallies convened in the 1960s.<sup>62</sup> More

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<sup>61</sup> See Peter J. Fliess, *Political Disorder and Constitutional Form: Thucydides' Critique of Contemporary Politics*, 21 U. Chicago J. Pol. 592 (1959); cf. Jasmin Hasanović, *Ochlocracy the Practices of Civil Society: A Threat for Democracy?*, 2 STUDIA JURIDICA ET POLITICA JAURINENSIS, 56 (2015) (discussing *demos* versus *ochlos* (the people versus the mob)).

<sup>62</sup> Cf. Mao Zedong's principle of democratic dictatorship:

Who are the "people"? At the present stage in China, they are the working class, the peasantry, the petty bourgeoisie and the national bourgeoisie. You are dictatorial." My dear sirs, what you say is correct. That is just what we are. All the experiences of the Chinese people, accumulated in the course of successive decades, tell us to carry out a people's democratic dictatorship. This means that the reactionaries must be deprived of the right to voice their opinions; only the people have that right. Under the leadership of the working class and the Communist Party, these classes unite to create their own state and elect their own government so as to enforce their dictatorship over the henchmen of imperialism—the landlord class and bureaucratic capitalist class, as well as the reactionary clique of the

important was avoiding that manifestations of direct democracy be polluted by the intervention of the same interests and forces who could manipulate conventional electoral processes.

This is not the only reason why rallies *had to be* organized by the active nucleus of the Revolution. During the Havana plebiscitarian meetings Fidel Castro, who was then the Prime Minister of Cuba, explained the reasons that had led to the drafting of the First and Second Havana Declaration. In liberal-democratic systems, national governments are accountable to parliaments, and subject to their oversight. Notions of Socialist democracy in Cuba were, and still are, fundamentally different. The liberal-democratic concept of accountability is replaced by responsibility of the active part of the Revolution towards every one of its components. The revolutionary core bears the duty of guiding the people towards the path of development chosen by them, acting on its behalf. It is within the concept of responsibility that mass rallies acquire their importance, because they provide the venue to express agreement towards concrete methods of revolutionary guidance, or its contrary.

Finally, from its very onset Cuba's Socialist democracy had a transnational element. The mass plebiscites held on the then Civic Square were meant to provide a model to be followed by other Latin-American states, and more generally speaking, by the economically and socially disempowered. The two sessions of the National General Assembly had not only produced an ideological urtext where popular affirmation played a fundamental role in legitimating the authority of the revolutionary core. They had also developed a first nucleus of principles of "socialist democracy" in

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Kuomintang, which represents these classes, and their accomplices. The people's government will suppress such persons. It will only permit them to behave themselves properly. It will not allow them to speak or act wildly. Should they do so, they will be instantly curbed and punished. The democratic system is to be carried out within the ranks of the people, giving them freedom of speech, assembly and association. The right to vote is given only to the people, not to the reactionaries. These two things, democracy for the people and dictatorship for the reactionaries, when combined, constitute the people's democratic dictatorship.

Mao Zedong, The People's Democratic Dictatorship (June 30, 1949).

a Caribbean context, which anti-establishment movements in neighboring states would soon embrace.<sup>63</sup> Even though plebiscitarian meetings no longer took place after 1962, the plebiscite remained as a latent possibility in Cuba's governance system.

More importantly, however, the participation urtext, grounded in the essential role of popular affirmation as the fundamental device for legitimating the authority of the vanguard, *opened the possibility that this mass popular assembly might one day not approve*.<sup>64</sup> But at the same time, it pressed the principle of vanguard guidance to constrain the discretion of mass assemblies. And it substantially boxed in the breadth of popular action by limiting its exercise to those who were already committed to the revolutionary enterprise, starting with the objects of class struggle: workers, peasants, and aligned intellectuals. "From then the socialist character of the Revolution had been declared, there had been a rupture of relations with the United States, the invasion of the Bay of Pigs and the creation of the single [vanguard] party, first called Revolutionary Integrated Organizations (ORI) and then United Party of the Cuban Socialist Revolution (PURSC)."<sup>65</sup>

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<sup>63</sup> Eduardo Rey Tristán, *La izquierda revolucionaria uruguaya, 1955-1973*, in 435 PUBLICACIONES DE LA ESCUELA DE ESTUDIOS HISPANOAMERICANOS 288 (Consejo Superior de Investigaciones Científicas, 2005).

<sup>64</sup> This was, of course, always the danger of physical presence in mass rallies. Theoretically, though, such loss of control would have been unthinkable, and practically, the vanguard would have ensured that the "right people" all properly instructed and managed and minded, would be in attendance. For a discussion of the way in which these mass rallies were organized in Cuba before 1976, see, e.g., Gerald Popiel, *Pachanga Si!: Two Months in Castro's Cuba*, 41(2) THE DALHOUSIE REVIEW 139, 151 (1961) ("At the rallies I sensed that I was witnessing a seance in which a strange intimacy was being enacted. These rallies are like tribal conclaves"). But this tension between theory and the mechanics of its execution produced the sort of contradiction that can be used to discredit this form of democratic expression. Some of those critiques also spill over into the referendum and plebiscite forms of liberal democracy, especially in the context of the "new" populism. See, e.g., Paul Lewis et al., *Revealed: the rise and rise of populist rhetoric*, THE GUARDIAN (Mar. 6, 2019) <https://www.theguardian.com/world/ng-interactive/2019/mar/06/revealed-the-rise-and-rise-of-populist-rhetoric>; cf., MARCO REVELLI, *THE NEW POPULISM: DEMOCRACY STARES INTO THE ABYSS* (David Broder, trans., Verso Books, 2019).

<sup>65</sup> In the original: "Para entonces había sido declarado el carácter socialista de la Revolución, se había producido la ruptura de relaciones con Estados Unidos, la invasión de Bahía de Cochinos y la creación del partido único, primero llamado

But as well, out of the second General Popular Assembly and the 2nd Havana Declaration emerged the kernels of what by 1975 would provide the core structures of Caribbean Leninism, one that marches decisively away from the forms of popular direct democracy while attempting to maintain its ideological legitimacy. The device of the popular mass assembly did not wither on the vine, but was instead the object of experimentation to tame it, to domesticate it, to make it more useful as a mechanism for the legitimization of the leadership and guidance of the vanguard party with respect to operationalization of its political line through state organs. That experimentation reached its most refined point in the construction of Asamblea Nacionales prototypes in the provinces after the end of the 1960s. But before then it manifested itself in the revolutionary government's constant efforts to "bottle the genie" of popular affirmation in more pragmatically aligned instruments:

The accelerated transition from a brief experience of direct democracy to a first communist-type institutionalization on the island was accompanied by the creation of a set of mass organizations-neighborhood committees, peasant, youth and women's associations, trade unions . . . , that governmentalized Cuban civil society. This [governmentalized] institutionalization was still precarious during the 60s and was constantly destabilized by the twists of the changing economic policy of the revolutionary government in that decade."<sup>66</sup>

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Organizaciones Revolucionarias Integradas (ORI) y luego Partido Unido de la Revolución Socialista de Cuba (PURSC)." Rafael Rojas, *La Soledad Constitucional Del Socialismo Cubano*, FIU Steven J. Green School of International & Public Affairs Commissioned Reports, Papers and Presentations, at 44 (Aug. 10, 2011), available at [https://lacc.fiu.edu/research/publications/constitutional\\_isolation\\_of\\_cuban\\_socialism.pdf](https://lacc.fiu.edu/research/publications/constitutional_isolation_of_cuban_socialism.pdf).

<sup>66</sup> In the original: "El tránsito acelerado de una breve experiencia de democracia directa a una primera institucionalización de tipo comunista, en la isla, se dio acompañado de la creación de un conjunto de organizaciones de masas -comités vecinales, asociaciones campesinas, juveniles y femeninas, sindicatos...-, que vertebró estatalmente la sociedad civil cubana. Dicha institucionalidad fue todavía precaria durante los años 60 y se vio constantemente emplazada por los giros de

The resulting search for a means of producing representative government along Caribbean Leninist lines would prove to be a longer-term project.

Connecting the device of General National Assemblies to the popular constitutive actions around the 1st PCC Congress in 1975 and the approval of the 1976 constitution requires the development of devices that were meant to solve the ultimate problem that this mechanism ultimately presented a maturing revolutionary government—a problem that has confronted all government based on popular sovereignty—that of efficiency. Like other similarly constituted states, the Cuban revolutionary government would eventually choose the path of representative mass democracy. But it would be one that required two distinct levels to reconcile its operations to the core postulates of Leninist government. The first layer would have to consist of the classical Leninist theory of vanguard party power; with the vanguard party understood to incarnate and represent the political will of the nation. At the same time, the masses would have to be reconstituted in representative form so that they might be assembled efficiently and managed effectively. To that end one moves from the assembly of the masses in 1962 to the construction of the national assembly of popular power, a subject which we take up next.

#### vi. Caveats.

The analysis must be understood within the peculiar context of the Cuban national situation. Four are especially worth keeping in mind as one moves from pragmatics efforts to a theory of affirmation within Cuban Leninism. First, it is possible to reduce the two Havana Declarations to Agit-Prop.<sup>67</sup> That is, the most important enduring element of the Havana Declarations were their theatrics. More specifically, the Havana Declarations could be

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la cambiante política económica del gobierno revolucionario en aquella década.” Rojas, *supra* note 65; cf. LUIS M. BUCH, *Gobierno Revolucionario Cubano. Génesis y Primeros Pasos* (La Habana, Editorial de Ciencias Sociales, 2001).

<sup>67</sup> Agit-Prop, of course, has been a mainstay of the radical left for over a century, even though the technique has no specific ideology as such. See, e.g., Kevin Brown, *Agitprop in Soviet Russia*, 14, *CONSTRUCTING THE PAST* 5, 5-8 (2013) (“Agitprop theatre had one explicit purpose: to reach the working class directly.”).

reduced to two quite specific and temporally constrained objectives. On the one hand, they might be understood as the production of propaganda to manage masses internally, one that was effectively abandoned after 1962 except for its historically useful propaganda effect.<sup>68</sup> At the same time the Havana Declarations might be understood as a means toward the projection of images of democracy that are meant to target influential Western intellectuals and the popular press. Castro had a love affair with Western intellectuals—and that affair required a certain amount of courtship.<sup>69</sup> The Havana Declarations fit right into the cultivation of the semi-savage post-colonial peoples that so titillated the intellectual predilections of the upper levels of the intelligentsia and journalist classes.

Second, the Havana Declaration might not point so much to the development of a new approach to Leninist collectivism through a mechanics of vanguard-led affirmation as much as it pointed to a reactionary element in the pre-Marxist Cuban revolutionary government. Indeed, the choice of a public spectacle in the capital more resembled the now anachronistic blood ritual affirmations around the guillotine of the French Terror than it did the revolutionary Leninist mechanics of managing socialist democratic impulses (even in the 1960s).<sup>70</sup> As an experiment, then, it looked backwards rather than forward and could not have survived the

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<sup>68</sup> “We are the people of the second Havana Declaration, which we did not copy from any document, but which was the pure expression of the profoundly revolutionary and highly internationalist spirit of our people.” Fidel Castro Ruz, Statement on Cuba Chinese Relations (Feb. 6, 1966), available at <http://lanic.utexas.edu/project/castro/db/1966/19660206.html>.

<sup>69</sup> For a discussion of the cultivation of Western intellectuals by the PCC, see, e.g., KEPA ARTARAZ, *CUBA AND WESTERN INTELLECTUALS SINCE 1959* (Palgrave MacMillan, 2009); Carlos Alberto Montaner, *The Cuban revolution and its acolytes*, 31 *SOCIETY*, no. 5, 1994, at 73.

<sup>70</sup> See generally Michel Foucault, *Discipline and Punish: The Birth of the Prison* (Alan Sheridan, trans., Vintage Books 2d ed. 1995) (1977). More interesting might be the inspiration drawn either from the great spectacles in the Soviet Union (and China in the 1950s), to the show trials of the 1930s, or their fascist counterparts. See, e.g., Chang-Tai Hung, *Mao's Parades: State Spectacles in China in the 1950s*, 190 *CHINA Q.* 411 (2007); Valentina G. Lebedeva, *Totalitarian and Mass Elements in Soviet Culture of the 1930s*, 42 *RUSSIAN STUDIES IN HISTORY*, no. 2, 2003, at 66; James von Geldern, *Putting the masses in mass culture: Bolshevik Festivals, 1918-1920*, 31 *JOURNAL OF POPULAR CULTURE*, 123, 123-144 (1998); Jeffrey T. Schnapp, 18 *BL: Fascist Mass Spectacle*, 43 *REPRESENTATIONS* 89, 89 (1993).



transposition of Leninism into the Revolutionary government over the next decade. Moreover, the device is anachronistic in the sense that it gives the Capital disproportionate weight. Lastly, and perhaps more importantly, the device carried with it a danger of conflation with bourgeoisie mechanisms where the Revolutionary government was looking for something distinctive. To that end the affirmation rather than the voting element of the technique would require another half century of development.

Third was the problem of the democratic character of the affirmation exercise represented in the Havana Declarations. These can be understood in several dimensions. First, who are these people who showed up in the square in Havana? Certainly, they were citizens of the capital and surrounding places; also likely were a group of people transported to the capital from all over Cuba by the revolutionary government.<sup>71</sup> But was this enough to make the affirmation either special or democratically authentic? That is a harder question with no satisfactory answer. Second, as a tool of government the exercise of the Havana Declarations posed a logistical nightmare. Even all of the people packed into the square in central Havana would have to serve as a representative of rather than as a manifestation of all of the people. But there is little to guide the authenticity of that representative element. And no one suggested the lunacy of gathering the Cuban people even in as large a square as that set aside for this exercise in Havana. Lastly, the role of the Committees for the Defense of the Revolution and other mass organizations might both expose the "guiding role" of the revolutionary government and also weaken their claim to a spontaneity and congregation of people.<sup>72</sup>

Lastly, this form of affirmation foreclosed any engagement. Affirmation negates the possibility of any form of discursive space. The nature of affirmation is yes-no-silence. With the focus on affirmation, even "no" becomes difficult as the disciplinary power of the mob to silence dissent becomes a powerful element of the

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<sup>71</sup> See e.g. JORGE I. DOMINGUEZ, *CUBA: ORDER AND REVOLUTION* (Harvard University Press, 1978); see e.g. RICHARD FAGEN, *THE TRANSFORMATION OF POLITICAL CULTURE IN CUBA* (Stanford University Press, 1969).

<sup>72</sup> See e.g. Richard R. Fagen, *Mass Mobilization in Cuba: The Symbolism of Struggle*, 20(2) J. OF INT'L AFFAIRS 254, 269-71 1966; see generally LUIS SALAS, *SOCIAL CONTROL AND DEVIANCE IN CUBA* (Praeger Publishers, 1979).

exercise. The result is a flattening of discussion. There can be no effort within this affirmation exercise to theorize, much less consider, Vanguard obligations respecting these “affirmations.” But discussion was not what the revolutionary government was after. Affirmation, then is nicely detached from and serves a different purpose from engagement either with or through the vanguard party.

In the end, though, what emerges clearly here is a technique with possibilities. It has the possibility of cloaking revolutionary actions of a vanguard with a democratic cover. It can connect the vanguard directly to the people. It offers a means of popular participation that could be distinguished from bourgeoisie (or capitalist system) political elections. And it could reaffirm the guiding leadership role of what would emerge as the Communist Party of Cuba in the years leading to the First PCC Congress in the mid-1970s, a subject to which we turn next.

*C. From the Asamblea General Nacional del Pueblo de Cuba to the Asamblea Nacional del Poder Popular; Situating Popular Assent Within an Institutional Cage, 1962-1976.*

For the Cuban state, the second Havana Declaration marked the last time the revolutionary government used the mechanism of assembly this way. Between the beginning of 1962 and the mass activities around the development of the ideological documents approved in the 1st PCC Congress in 1975 there were many assemblies of the masses in the Plaza de la Revolución.<sup>73</sup> But those assemblies were rallies and not constitutive in any sense. But of course, it was for the vanguard to determine the character of the assembly – to an outsider it would have been hard to distinguish a large mass rally from the constitutive assemblies held in 1960 and 1962. The key to both was not the assembly itself but the invocation of its sovereign character, not by the masses themselves, but by its vanguard, those with the authority to assemble the people in this way.

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<sup>73</sup> See FIDEL CASTRO RUZ, *FIDEL CASTRO READER*, 483-98 (David Deutschamn & Deborah Shnookal, eds., Ocean press, 2008); William M. LeoGrande, *The Theory and Practice of Socialist Democracy in Cuba: Mechanisms of Elite Accountability*, 12 *STUDIES IN COMPARATIVE COMMUNISM* 39, 48 (1979).

Viewed in this way, even at this stage, the Cuban revolutionary government was feeling its way toward Leninist governance principles combined with Marxist political principles.<sup>74</sup> That journey was grounded in class struggle in which the only people who mattered were the proletariat and the revolutionary worker cadres (the Cuban "militantes" nodding toward the military focus of the initial success). What was emerging was a consistency in mechanics: it was clear that a sort of corporatist "active-passive" principle had been embraced. That is, the principle of popular mass action could not be self-invoked, it acquired its constitutive character only as a result of the call to assembly by the vanguard. And that call could only be understood as effective when exercised only by the people, which were understood, in turn to include only those leading forces of society in solidarity with the principles of the revolution and the leadership of the revolutionary government. The circle is complete.

i. Constraining popular power within a cage of representative institutionalization.

It is against this ideological backdrop that the revolutionary government slowly confronted the issue of its institutionalization. Like all revolutionary governments, the Cuban governing apparatus was brought to face with the contradictions of its principles as a revolutionary party against the realities of running a state.<sup>75</sup> And like the Soviet Union, the Cuban revolutionary government made a number of choices that brought into tension its earlier core ideologies and the allurements of an ideology, not of a nomenklatura<sup>76</sup> (for that had already progressed prodigiously between 1962 and 1976) but of the vessel for popular affirmation of vanguard policy to then be sent back to the vanguards cadres

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<sup>74</sup> See e.g., SHELDON B. LISS, *FIDEL!: CASTRO'S POLITICAL AND SOCIAL THOUGHT*, 47-54 (Westview Press, 1994).

<sup>75</sup> Nicholas Boline, *Fidel Castro's Grand Strategy in the Cuban Revolution: 1959-1968*, PAPERS & PUBLICATIONS: INTERDISCIPLINARY J. OF UNDERGRADUATE RESEARCH, 2015; see also Leon Trotsky, *The Russian Revolution: The Overthrow of Tzarism and the Triumph of the Soviets*, 477 (F.W. Dupree, ed., Max Eastman, trans., Doubleday, 1932).

<sup>76</sup> See, e.g., MICHAEL VOSLENSKY, *NOMENKLATURA: THE SOVIET RULING CLASS* (1984).

placed strategically within the administrative apparatus of the state.<sup>77</sup>

For the revolutionary government that required a progression from revolutionary government to socialist state, with respect to which Fidel Castro sought to cast in as good a light as possible. "In this transcendental and historical act, of which we are all living witnesses, the provisional period of the Revolutionary Government ceases and our definitive institutional forms are adopted by our socialist State. The National Assembly is constituted as the supreme organ of the State and assumes the functions assigned to it by the Constitution. It was a duty and it is at the same time a great triumph of our generation to reach this goal."<sup>78</sup>

The official history suggests an organic progress from a revolutionary state in which all authority had to be concentrated in the hands of a single vanguard to a position of stability that at last permitted the revolutionary vanguard to seek to institutionalize its governance through representative organs under its leadership.<sup>79</sup> The necessities of dismantling the structures and operations of U.S. (primarily) colonialism (as they characterized the relationship) and the need to develop new structures created a context in which the revolutionary government took for itself all of the powers of state.<sup>80</sup> It "decreed revolutionary laws, expropriated the exploiters property, and developed basic social mutations, successfully carried out the political struggle against external and internal aggression. Supported overwhelmingly by the people, the

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<sup>77</sup> See, e.g., DANIEL N. NELSON, STEPHEN WHITE (EDS.), *COMMUNIST LEGISLATURES IN COMPARATIVE PERSPECTIVE* (MacMillan 1982).

<sup>78</sup> Fidel Castro Ruz, Commander in Chief of Cuba, Speech Delivered at the National Assembly of Popular Power (Dec. 2, 1976) (available at: <http://www.cuba.cu/gobierno/discursos/1976/esp/f021276e.html>) ("En este acto trascendental e histórico, del cual todos somos testigos vivientes, cesa el período de provisionalidad del Gobierno Revolucionario y adopta nuestro Estado socialista formas institucionales definitivas. La Asamblea Nacional se constituye en órgano supremo del Estado y asume las funciones que le asigna la Constitución. Era un deber y es a la vez un gran triunfo de nuestra generación arribar a esta meta.").

<sup>79</sup> See, e.g., Aviva Chomsky, *A History of the Cuban Revolution*, WILEY 40-51 (2nd ed. 2015).

<sup>80</sup> On the mechanics of government before 1976 in Cuba, see, e.g., William M. LeoGrande, *The Politics of Revolutionary Development: Civil-Military Relations in Cuba, 1959-1976*, 1 J. OF STRATEGIC STUD. 260, 260-294 (1978).

revolutionary government promoted in this period vast and deep political, economic, social and cultural transformations in Cuban life.<sup>81</sup> But, of course, it was not clear that it was either a duty or a triumph; or if it was, whether it was to a large extent a fulfilled of the ideological promises of the earliest period of revolutionary governance. More importantly, it was not entirely true—as the revolutionary government used that period to develop and apply principles of mass popular approval as the fundamental modality for ratification of their actions.

Yet that process of democratic ratification was actually undertaken only twice; the rhetoric of ratification remained far more potent than its application. And that augured another conundrum for the government: it could not abandon its core ideological notion of popular ratification at mass events; such undertakings, however, had been reserved for extraordinarily events; that left unanswered questions about the scope of any obligation to seek popular (mass) acclamation. If the scope of mandatory popular affirmation was broad, then a mechanism would have to be developed for the institutionalized invocation of the popular will (its affirmation power). However, to the extent that this would require devolving that popular power to an institution, it would raise the issue of popular representation in such a body. But to approach that question was also to confront the companion ideological constraint made explicit in the two Havana Declarations—specifically the ideological line that traditional voting mechanisms were corrupted by the ideology of liberal democracies and would tend to lead to systemic corruption in the sense that it would create incentives towards class-based dominance.

Moreover, even if one could solve that problem, the fundamental problem of the relationship of this mechanism for popular assent to the leadership responsibilities of the PCC would

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<sup>81</sup> In the original: "El "dictó las leyes revolucionarias, expropió a los explotadores, desarrolló básicas mutaciones sociales, llevó a cabo con éxito la lucha política frente a las agresiones externas e internas. Apoyado masivamente por el pueblo, el gobierno revolucionario impulsó en este período vastas y hondas transformaciones políticas, económicas, sociales y culturales en la vida cubana." Asamblea Nacional Der Poder (2018), [https://www.ecured.cu/Asamblea\\_Nacional\\_del\\_Poder\\_Popular](https://www.ecured.cu/Asamblea_Nacional_del_Poder_Popular).

have to be theorized and also operationalized within the institutional structures created. That relationship, in turn, might be based on principles of active rather than passive power already inherent in the relationship between the revolutionary government and the Asambleas General Nacional. And yet, it might also require something more than a simple affirmation of work done elsewhere. It was necessary, then, also to consider the extent to which such an institutionalized voice of popular affirmation might also be avenue for review and interaction (here with an institutionalized voice of the people) of the legislative and policy guidance received from the PCC.

By the early 1970s, a determination was made that there was a need to streamline the process of popular approval of fundamental acts not otherwise reserved to the administrative machinery.<sup>82</sup> The constitution of mass assemblies like the Asambleas General Nacional del Pueblo de Cuba of the early 1960s was ideologically ideal but practically impossible for the business of acquiring a constant and uniform and predictable approval of leadership guidance by the PCC. At the same time, the idea of engagement was thought useful – the idea that popular deep engagement in the formulation of the actions to be affirmed doubled the instance of popular investment in the work of the state and cemented the theoretical requirement of popular involvement in the operation of the state. To that end, the PCC developed a new model for reform that was to have a substantial impact on the way in which it understood and practiced what was to become Caribbean Marxist Socialist democracy.

ii. A Transition from a Revolutionary to a Marxist-Leninist State Institution Requires a Constitution to

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<sup>82</sup> See, e.g., Fidel Castro Ruz, *Formation of the Cuban Communist Party and Che's Farewell Letter* (Oct. 3, 1965), in *FIDEL CASTRO READER* 275-292 (David Deutschmann and Deborah Shnookal, eds., 2008); see also, Lourdes Casal, *On Popular Power: The Organization of the Cuban State During the Period of Transition*, 2 *LATIN AMERICAN PERSP.* 78, 78-88 (1975).

### Memorialize the Transition: Theorizing Popular Participation in Constitutional Reform in Cuba.

Cuba was essentially without a formal constitution (though not without a form of basic law) from just after the establishment of the post-Batista government in 1959, its transformation into a Marxist-Leninist form of government in the early 1960s, and its development during the first 15 years of its existence.<sup>83</sup> The adoption of the first post-revolutionary constitution marked the formal establishment of an autonomous (of sorts) PCC under the strong direction of its core—the PCC's First Secretary (Fidel Castro) and the PCC Central Committee—and the celebration of its first PCC Congress.<sup>84</sup>

The first PCC Congress adopted what in retrospect have remained the core organizing documents of the political and economic systems that remains the operational base of its society.<sup>85</sup> These resolutions framing the core premises of the political and economic order were then to be transposed into a state constitution.<sup>86</sup> That state constitution was then itself to be the object through which the masses would be informed of the political principles around which the state was organized, and also to provide the masses with an opportunity to engage with those principles.

The First Congress of the Communist Party of Cuba considers that the text perfected by the Central Preparatory Commission with the contributions of public and popular discussion of the Draft Constitution, based on the principles of Marxism-Leninism, serves the firm decision of our Party and our [proletariat] to endow our country with a Socialist Constitution that, because it

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<sup>83</sup> See, e.g., Max Azicri, *The Institutionalization of the Cuban State: A Political Perspective*, 22 J. OF INTER-AM. STUD. & WORLD AFF. 315, 315-344 (1980).

<sup>84</sup> See, e.g., William M. LeoGrande, *Party Development in Revolutionary Cuba*, 21 J. OF INTER-AM. STUD. & WORLD AFF. 457, 457-480 (1979).

<sup>85</sup> See, e.g., Michael B. Wise, *Cuban Constitutionalism: Will There Be Changes*, 51 DUQ. L. REV. 467, 467 (2013); Michael Bognan, *Thirty Years of Cuban Revolutionary Law*, 15 REV. SOCIALIST L. 319 (1989).

<sup>86</sup> See, e.g., Edward Gonzales, *Castro and Cuba's New Orthodoxy*, 25 PROBS. COMMUNISM 1 (1976); L.B. Klein, *The Socialist Constitution of Cuba (1976)*, 17 COLUM. J. TRANSNAT'L L. 451 (1978).

corresponds to the realities and needs of the construction of socialism, is an inviolable norm for the actions of all, both the organs of the State, its leaders, officials and employees, as of each citizen in particular; be a sure foundation of the rise and consolidation of socialist legality. . . . The First Congress of the Communist Party of Cuba, in consequence, gives its approval to the improved text of the Draft Constitution and recommends that it be officially published as the Constitution Project of the Republic and submitted by referendum to the universal, free and secret vote of citizens, together with the Constitutional Transit Bill; that the referendum be organized so that all citizens with the right to vote have the opportunity to vote in it, for which polling places must be established with reference not only to domicile, but also to where the voters are located . . . so that the Constitution can be proclaimed solemnly on February 24, the eighty-first anniversary of the start of the revolutionary war for national independence organized by José Martí, whose desire that the First Law of the Republic is the cult of Cubans to the full dignity of man, presides over our Constitution, as a norm of our socialist society and principle always present in the whole development of our Revolution.<sup>87</sup>

But this engagement was not to be undertaken without boundaries on discourse. Rather popular participation was meant to serve as a further means through which the vanguard revolutionary party could continue its project of socializing the masses to the revolutionary order. Fidel Castro made that quite clear in his address to the Congress:

We are sure that whatever may be missing so that the Congress has the highest quality, so that the event has the greatest significance, will be carried out. Because this is precisely the First Congress, it is faced with countless issues of the greatest interest. And, in reality, great and important decisions, which will greatly influence the

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<sup>87</sup> *I Congreso Del Pcc: Tesis Y Resoluciones Sobre La Constitución Y Ley De Tránsito Constitucional*, GRANMA (Dec. 26, 1975), at 5.



future life of the country, must be taken by that Congress. Currently, we are in the midst of discussing the Constitution of the Republic with all the people. The Constitution of the Republic took us almost 40 hours of analysis and discussion in the Preparatory Commission. Now all the people are discussing it. Then we will have to analyze it again, taking into account the opinions and the judgments that have been expressed. And we see with what interest the people have taken the discussion of the Constitution. \* \* \* When the revolutionary processes are institutionalized and consolidated through truly adequate institutions - as was the case with the Bolshevik Revolution, which is now more than 50 years old, which is progressing uninterruptedly, and we know that it will continue to advance - we see what great stability it gives these people, What great stability do these nations and these human collectivities have when they organize themselves well, when they become well institutionalized, when they have the right organisms to move forward?<sup>88</sup>

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<sup>88</sup> Fidel Castro Ruz, Commander in Chief of Cuba, Speech Delivered to the Party of Leaders of Mass Organizations (May 29, 1975), (available at: <http://www.granma.cu/file/pdf/PCC/1congreso/DISCURSO-DE-FIDEL-EN-EL-ACTO-EN-QUE-LE-FUERAN-ENTREGADOS-LOS-COMPROMISOS-DEL-PUEBLO-EN-SALUDO-AL-PRIMER-CONGRESO-DEL-PARTIDO.pdf>) (“Estamos seguros de que lo que falta para que el Congreso tenga la mayor calidad, que el evento tenga la mayor significación, será cumplido. Por ser este precisamente el Primer Congreso, comprende un sinnúmero de asuntos del mayor interés. Y, en realidad, grandes e importantes decisiones, que influirán enormemente en la vida futura del país, se han de tomar en ese Congreso. Por lo pronto, ya estamos discutiendo con todo el pueblo la Constitución de la República. La Constitución de la República nos llevó casi 40 horas de análisis y de discusión en la Comisión Preparatoria. Ahora la está discutiendo todo el pueblo. Después tendremos de nuevo que analizarla, tomando en cuenta las opiniones y los criterios que se han vertido. Y vemos con qué interés el pueblo ha tomado la discusión de la Constitución. \* \* \* Cuando los procesos revolucionarios se institucionalizan y se consolidan a través de instituciones realmente adecuadas — como ocurrió con la Revolución Bolchevique, que tiene ya más de 50 años, que avanza ininterrumpidamente, y sabemos que seguirá avanzando—, vemos qué gran estabilidad le da a esos pueblos, qué gran estabilidad tienen esas naciones y esas colectividades humanas cuando se organizan bien, cuando se institucionalizan bien, cuando tienen los organismos adecuados para marchar adelante.”).

And that that popular engagement was to be undertaken and narrowed through the lens of revolutionary representation. It was clear that the idea ideologically was that the masses would be represented best by those among them with the greatest credentials as PCC adherents and most attached to the PCC's line developed especially for the purpose of conceiving and articulating a constitution.

Our people know who is part of the Party, know that these *militantes* [cadres] were selected in the work centers with the active participation of the masses; [our people] know that the best workers work in the Party, knows that the best citizens are in the Party, and knows that for the Congress the Communists chose among the best Communists to draw the line of the Party. (Applause) And that is why our people feel represented in the Party. But also, the most important principles were discussed with all the people. The people participated in the elaboration of these principles and in the elaboration of the politics of the future years. And that is why our people know that the principles and agreements of the Congress are their principles and are their agreements! (APPLAUSE). If there, in the "Karl Marx", the Congress of the Party meets, here in the Plaza of the Revolution the People's Congress meets to express its support for the agreements of the Congress (applause). But if we vote there, we must vote here too (applause). If there we discuss and approve all theses, here, in representation of all the people, we must also vote, and ask our people if they support or do not support the agreements of the Congress (applause and shouts of: "Yes!").<sup>89</sup>

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<sup>89</sup> "Nuestro pueblo sabe quiénes integran el Partido, sabe que esos *militantes* fueron seleccionados en los centros de trabajo con la activa participación de las masas; sabe que en el Partido militan los mejores obreros, sabe que en el Partido militan los mejores ciudadanos, y sabe que para el Congreso los comunistas eligieron entre los mejores comunistas para trazar la línea del Partido (APLAUSOS). Y por eso, nuestro pueblo se siente representado en el Partido. Pero además, las tesis más importantes fueron discutidas con todo el pueblo. El pueblo participó en la elaboración de esas tesis y en la elaboración de la política de los años futuros. ¡Y por eso sabe que las tesis y los acuerdos del Congreso son sus tesis y son sus acuerdos! (APLAUSOS). Si allí en el "Carlos Marx" se reunió el Congreso

The confluences so densely intermeshed in the quoted language above becomes the operative model of popular participation, and also established a baseline that itself will prove a challenge to a Leninist organizational structure increasingly desiring to streamline its governance organs—including organs for popular affirmation. Yet the keys to overcoming that contradiction are already present here—the identity between the PCC and the leading forces of the nation, the identity between Party cadres and the most suitable representatives of the masses, the dual role of the PCC as both the vanguard party whose leadership is central to government and as the true representation (incarnation) of the people and the popular will essential for the legitimization of the actions undertaken by the vanguard, and the importance of popular consultation of the work product of the Party and its organs by the people whose interventions are then considered in finalizing actions by Party and State. But at the same time there is at least one last look back to earlier forms of mass expression—of the authority of gatherings of the masses at the instance of and under the guidance of the PCC, whose affirmation of their representatives' action "performs" sovereign approval. These are the patterns that ought to be kept in mind as we move from the development of these reflexes in the practice of Cuban Leninism, and the process through which, after 2011, the economic and political model of the state and party are reconceptualized, an economic plan for the nation is developed, a program of reform and opening up as the basic line of the PCC is developed, and the national constitution is reformed.<sup>90</sup>

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del Partido, aquí en la Plaza de la Revolución se reúne el Congreso del pueblo para expresar su apoyo a los acuerdos del Congreso (APLAUSOS). Pero si allí votamos, aquí debemos votar también (APLAUSOS). Si allí discutimos y aprobamos todas las tesis, aquí, en representación de todo el pueblo, debemos también votar, y preguntarle a nuestro pueblo si apoya o no apoya los acuerdos del Congreso (APLAUSOS Y EXCLAMACIONES DE: "¡Sí!"). *Id.*

<sup>90</sup> See generally, JORGE DOMINGUEZ, OMAR EVERLENY PÉREZ VILLANUEVA, EDS., *THE CUBAN ECONOMY IN A NEW ERA: AN AGENDA FOR CHANGE TOWARD DURABLE DEVELOPMENT* (Cambridge, MA: Harvard University David Rockefeller Center for Latin American Studies and Harvard University Press, 2017) (discussing how the economic model has not gone uncontested).

iii. Caveats.

Again, a number of caveats are in order at this point. The first is that the transposition of the (convenient) Soviet model also managed to transpose its weaknesses. These included the cult of personality Stalinism that ultimately contributed to the collapse of Soviet versions of Leninism,<sup>91</sup> and the construction of a rules-bound nomenklatura that would effectively seek to smother democratic engagement and the role of the masses and mass organizations in their collective exercise of discretionary political power.<sup>92</sup> Second, the period from 1976 and the conclusion of the 1<sup>st</sup> PCC Congress increasingly evidence the growing gap between theory (such as it might be developed) and the realities of Cuban government, usually characterized as reinventions or reactions to stress.<sup>93</sup> The resulting evisceration of Leninist theory reduced its utility to *post facto* rationalization to cover the pragmatic decision making that passed for PCC leadership from 1976.<sup>94</sup> Third, evisceration was also noticeable in the way in which the institutionalization of “popular power” within the Asamblea Nacional produced a greater distance between the masses, and mass organizations, and the leadership of the PCC. Even by the standards of classical Leninist theory, the resulting Stalinization of the role of masses made affirmation not

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<sup>91</sup> See, e.g., Graeme Gill, *The Soviet Leader Cult: Reflections on the Structure of Leadership in the Soviet Union*, 10 BRITISH J. OF POL. SCIENCE 167, 167-186 (1980). See Note, *supra* note 9. See also A.V. Pyzhikov, A. V., *The cult of personality during the Khrushchev Thaw*, 50(3) RUSSIA STUD. IN HISTORY 11, 11-27 (2012). See, e.g., D. LEESE, MAO CULT: RHETORIC AND RITUAL IN CHINA'S CULTURAL REVOLUTION (Cambridge: Cambridge University Press, 2011) (discussing the Chinese version of personality cults).

<sup>92</sup> See generally, John Lowenhardt, *Nomenklatura and the Soviet Constitution*, 10 REV. SOCIALIST L. 35 (1984); Bohdan Harasymiw, *Nomenklatura: The Soviet Communist Party's Leadership Recruitment System*, 2 CANADIAN J. OF POL. SCIENCE, 493-512 (1969); John P. Burns, *China's Nomenklatura System*, 36 PROBS. COMMUNISM 36 (1987) (discussing the Chinese nomenklatura system).

<sup>93</sup> See generally, MAX AZICRI, CUBA TODAY AND TOMORROW: REINVENTING SOCIALISM 246-249 (2004); PHILIP BRENNER, MARGUERITE ROSE JIMÉNEZ, JOHN M. KIRK, WILLIAM M. LEOGRANDE (EDS.), A CONTEMPORARY CUBA READER: REINVENTING THE REVOLUTION 25-104 (Rwomann and Littlefield, 2008); ARIANA HERNANDEZ-REGUANT (ED.), CUBA IN THE SPECIAL PERIOD: CULTURE AND IDEOLOGY IN THE 1990s (Palgrave MacMillan, 2009).

<sup>94</sup> See, e.g., Paul C. Sondrol, *Totalitarian and Authoritarian Dictators: A Comparison of Fidel Castro and Alfredo Stroessner*, 23(3) J. OF LATIN AM. STUDIES 599-620 (1991); Bert Hoffmann, *Transitions from Charismatic Rule: Theories of Leadership Change and Cuba's Post-Fidel Succession*, GIGA Working Paper No. 56 (Aug. 1, 2007).

merely vestigial after 1962, but also irrelevant—until it was resurrected after 2011.<sup>95</sup> Third, even with the construction of the Asamblea nacional mechanism, the problem of mass representation remained unresolved in theory and practice. Jorge Domínguez has suggested the ways in which claims of voting itself have proven either that it retains a fidelity to bourgeoisie roots (voting for people rather than affirming qualified representative choices of the vanguard) or that the affirmation/engagement role of the Asamblea remains under developed.<sup>96</sup> The result was either systemic corruption or/and functional delegitimization.

*D. A Pure Theory of Elections within a Caribbean Leninist State.*

Cuba's first post 1959 revolution constitutional plebiscite was held as part of the organization of the Cuban Communist Party and the institutionalization of its structures. It marked one of the significant products of the PCC's 1st Congress.<sup>97</sup> It was embedded within a broader project of elaborating the core principles of what would become Cuba's Caribbean Marxism, with respect to what would emerge as the first conceptualization of Cuba's economic and political model. This formalization of the PCC's "Basic Line"<sup>98</sup> and the conceptual expression of the principles of political and economic organization were expressed in the many documents and resolution produced under the guidance of the Central Committee

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<sup>95</sup> For a discussion of the use of mass organizations in Cuba after 1959, see, e.g., Benigno E. Aguirre, *Social Control in Cuba*, 44(2) *LATIN AM. POL. AND SOC.* 67 (2008).

<sup>96</sup> Jorge I. Domínguez, Chair of Harvard Academy for International and Area Studies, Address to the Annual Conference of the Association for the Study of the Cuban Economy: The Democratic Claims of Communist Regime Leaders: Cuba's Council of State in a Comparative Context (July 25-27, 2019).

<sup>97</sup> Congreso PCC, *Llamamiento al 1er Congreso PCC*, Centro de Información para la Prensa (1975).

<sup>98</sup> On the role and shaping of a communist party "basic line" see, e.g., John Wilson Lewis, *The Leadership Doctrine of the Chinese Communist Party: The Lesson of the People's Commune*, 3 *ASIAN SURVEY* 457-464 (1963); Larry Catá Backer, *supra* note 28.

of the PCC and its First Secretary, and approved at the 1st PCC Congress.<sup>99</sup>

To those ends, of course, the 1st PCC Congress and its work product constituted the first major coordinated effort to solidify the ideological foundations of the Cuban political-economic model and on that foundation to build the institutional structures necessary for its application to the nation.<sup>100</sup> That foundation looked to institutionalize the role of the Communist Party in its overarching role as a vanguard with the primary objective of ensuring stability and conformity with its ideological line in the operation of the state. “When the revolutionary processes are institutionalized and are consolidated through institutions that are really adequate—as occurred with the Bolshevik Revolution, now more than 50 years old, that advances in an uninterrupted way, and that we know will continue advancing—one sees the sort of profound stability these institutions provide to those peoples, one sees the sort of great stability that these nations and human collectives have, when they are well organized, when they are well institutionalized, and when they have the appropriate organs to move forward.”<sup>101</sup>

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<sup>99</sup>Among the documents that remain available on the PCC website are those that touch on the issues of formal PCC organization, and the expectations of PCC cadres, on the organs of popular power, on the establishment of mechanisms for a centrally planned economy, on the role of the Party-State in science, arts and culture, on the guiding role of the PCC and its work of socializing the masses, and on the relationship between the Party-State and religious establishments. *See e.g., Sobre la Plataforma Programática.; Sobre los Estatutos del Partido.; Sobre la Vida Interna del Partido.; Sobre la política de formación, selección, ubicación, promoción y superación de los cuadros.; Sobre las directivas para el desarrollo económico y social en el quinquenio 1976-1980.; Sobre la Constitución y Ley de tránsito constitucional. Sobre los Organos del Poder Popular.; Sobre la División Político-administrativa.; Sobre las directivas para el desarrollo económico y social en el quinquenio 1976-1980.; Sobre el Cronograma de aplicación de la división político-administrativa, los órganos del Poder Popular y el Sistema de Dirección de la economía.; Sobre Política Internacional.; Sobre los Estudios del marxismo-leninismo en nuestro país.; Sobre los Medios de difusión masiva.; Sobre Política educacional.; Sobre Política Científica Nacional.; Sobre la Cultura artística y literaria.; Sobre la Cuestión agraria y las relaciones con el campesinado.; Sobre la Política en relación con la religión, la iglesia y los creyentes.; Sobre el pleno ejercicio de la igualdad de la mujer.; Sobre la formación de la niñez y la juventud.; Sobre las apelaciones.; Sobre el XI Festival Mundial de la Juventud y los Estudiantes.; Resolución Especial.*

<sup>100</sup> *See id.*

<sup>101</sup> Fidel Castro Ruz, Commander in Chief of Cuba, Speech Delivered to the Party of Leaders of Mass Organizations (May 29, 1975), (available at: <http://www.granma.cu/file/pdf/PCC/1congreso/DISCURSO-DE-FIDEL-EN->

Thus, that solidification has had staying power; despite many challenges and crisis, the vanguard party has remained loyal to the core premises of what in retrospect were the foundations of Cuba's Caribbean Marxism.<sup>102</sup> These continue to inform the operation and conceptual universe of its leaders to this day.<sup>103</sup> That institutionalization included among its core elements a state constitution, the reorganization of territorial divisions, the establishment of a national assembly, and the reorganization of the administrative organs of the state. "In these last few months, the Revolution has been expending a considerable effort to implement the accords adopted by the [First PCC] Congress: the Constitution, the establishment of the [National Assembly of] Popular Power, the new Political-Administrative division, the restructuring of the central organs of the state, the progressive embedding of a system of management for the economy, and countless more tasks of partisan and state order."<sup>104</sup>

Caribbean Marxism, however, was never intended as mere theory. Rather, its object was to inform the political and economic project of the PCC to be implemented through administrative institutions designed and operated to that end. This, as a first task, those structuring and conceptual premises, and particularly the

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EL-ACTO-EN-QUE-LE-FUERAN-ENTREGADOS-LOS-COMPROMISOS-DEL-PUEBLO-EN-SALUDO-AL-PRIMER-CONGRESO-DEL-PARTIDO.pdf)

("Cuando los procesos revolucionarios se institucionalizan y se consolidan através de instituciones realmente adecuadas—como ocurrió con la Revolución Bolchevique, que tiene ya más de 50 años, que avanza ininterrumpidamente, y sabemos que seguirá avanzando—vemos qué gran estabilidad le da a esos pueblos, qué gran estabilidad tienen esas naciones y esas colectividades humanas cuando se organizan bien, cuando se institucionalizan bien, cuando tienen los organismos adecuados para marchar adelante.").

<sup>102</sup> BACKER, *supra* note 3 at 27-35.

<sup>103</sup> Jorge I. Domínguez, CUBAN COMMUNISM 533-540 (Irving Louis Horowitz & Jaime Suchlicki, eds., 10th ed. 2001); *see generally* BACKER, *supra* note 3.

<sup>104</sup> Fidel Castro Ruz, Commander in Chief of Cuba, Speech Delivered to the City of Havana (Sept. 28, 1976), (available at: <http://www.cuba.cu/gobierno/discursos/1976/esp/f280976e.html>) ("La Revolución viene realizando en estos últimos meses un considerable esfuerzo en la aplicación de los acuerdos del Congreso: la Constitución, el establecimiento de los Poderes Populares, la nueva División Político-Administrativa, la reestructuración de los organismos centrales del Estado, la implantación progresiva de un sistema de dirección de la economía, e incontables tareas más de orden partidario y estatal.").

economic and political model embraced in the 1st PCC Congress required translation into an institutionalized political apparatus. That, in turn, required the institutionalization of a mass organization for the expression of popular power. That produced the organization of the National Assembly of Popular Power, whose work began on 2 December 1976.<sup>105</sup>

In this transcendental and historical act, of which we are all living witnesses, the provisional period of the Revolutionary Government ceases and our definitive institutional forms are adopted by our socialist State. The National Assembly is constituted as the supreme organ of the State and assumes the functions assigned to it by the Constitution. It was a duty and it is at the same time a great triumph of our generation to reach this goal. \* \* \* These representatives of the people receive no remuneration for their status as deputies. Nor do they exercise office without the control of their fellow citizens. Their representation is revocable at any time by the same that elected them. None will be above the law, nor the rest of his countrymen. Their positions do not entail privileges but duties and responsibilities. In our system, too, the government and the administration of justice depend directly on the National Assembly. There is division of functions, but there is no division of powers. Power is one, that of the working people, exercised through the National Assembly and the State agencies that depend on it.<sup>106</sup>

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<sup>105</sup> *I Legislatura 1976–1981*, PARLAMENTO CUBANO (Apr. 19, 2016), <http://www.parlamentocubano.gob.cu/index.php/i-legislatura-1976-1981/> (last visited Aug. 6, 2019).

<sup>106</sup> Fidel Castro Ruz, Commander in Chief of Cuba, Speech Delivered at the National Assembly of Popular Power (Dec. 2, 1976), (available at: <http://www.cuba.cu/gobierno/discursos/1976/esp/f021276e.html>) (“En este acto trascendental e histórico, del cual todos somos testigos vivientes, cesa el período de provisionalidad del Gobierno Revolucionario y adopta nuestro Estado socialista formas institucionales definitivas. La Asamblea Nacional se constituye en órgano supremo del Estado y asume las funciones que le asigna la Constitución. Era un deber y es a la vez un gran triunfo de nuestra generación arribar a esta meta. \* \* \* Estos representantes del pueblo no reciben remuneración alguna por su condición de diputados. Tampoco ejercen el cargo sin el control de sus conciudadanos. Su representación es revocable en cualquier instante por los mismos que los eligieron. Ninguno estará por encima de la ley, ni del resto de sus



A blueprint was also required for the administrative structure through which the economic and political model could be implemented through state organs. These administrative organs would institutionalize administrative authority through which the PCC would operate—not as a vanguard, but as a state organ asserting the administrative power of government both internally and externally. These were to be confirmed by the new revolutionary constitution.

These organs were not meant merely to implement Marxist Leninist ideology, but to preserve it as well. Fidel Castro in 1976 was at some pains to point out the importance of the relation between ideology, the state organs, and the integrity of the vanguard Communist Party by contrasting Cuba and the Soviet Union to China. China ceased to be a Leninist and Marxist state when it chose to abandon its core ideology, when it started to abandon class struggle and the privileging of workers, peasants and their allies.

That the most absurd things can happen even in the bosom of the socialist family and in countries that started that glorious and revolutionary path, if the principles are neglected, if the concepts are lost, if men become gods, if internationalism is abandoned, it's the recent history of China. \* \* \* All this can happen when a corrupted and deified clique can take over the Party, destroy, humiliate and crush the best militants and impose its will on the entire nation, supported by the strength and prestige that emanates from a profound social revolution. I have always believed that the founders of a revolutionary socialist process acquire before their fellow citizens such authority and ancestry, such and such powerful means of power that the unrestricted use of that authority, that

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compatriotas. Sus cargos no entrañan privilegios sino deberes y responsabilidades. También en nuestro sistema el gobierno y la administración de justicia dependen directamente de la Asamblea Nacional. Hay división de funciones, pero no hay división de poderes. El poder es uno, el del pueblo trabajador, que se ejerce a través de la Asamblea Nacional y de los organismos del Estado que de ella dependen.”).

prestige and those means can lead to serious errors and incredible abuses of power. I think for that reason and I have always thought that whatever the individual merits of any man, every manifestation of personality cult must be radically avoided; that any man, no matter what aptitudes can be attributed to him, will never be superior to collective capacity, than collegiate leadership, unrestricted respect for the practice of criticism and self-criticism, socialist legality, democracy and partisan and state discipline and the inviolability of the norms and the basic ideas of Marxism-Leninism and socialism are the only values on which a true revolutionary leadership can be sustained.<sup>107</sup>

Thus, ideology provides the boundary between a revolutionary democratic state under the direction of a vanguard party, and a vanguard party that it has become a reactionary force. But that ideology can only be protected by the masses themselves—that is, the revolutionary masses to which popular authority could be vested—in a state of class struggle that would include only workers, students, peasants and their allies. They serve as the critical authenticating and protective force that preserves the Leninist and Marxist principles of the state even against its own

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<sup>107</sup> “De que las cosas más absurdas pueden ocurrir aún en el seno de la familia socialista y en países que iniciaron ese glorioso y revolucionario camino, si los principios se descuidan, si los conceptos se pierden, si los hombres se hacen dioses, si el internacionalismo se abandona, es la historia reciente de China. \* \* \* Todo eso puede ocurrir cuando una camarilla corrompida y endiosada puede hacerse dueña del Partido, destruir, humillar y aplastar a los mejores militantes e imponer su voluntad a toda la nación, apoyada en la fuerza y el prestigio que emana de una profunda revolución social. Siempre he creído que los fundadores de un proceso revolucionario socialista adquieren ante sus conciudadanos tal autoridad y ascendencia, tales y tan poderosos medios de poder, que el uso irrestricto de esa autoridad, ese prestigio y esos medios puede llevar a graves errores e increíbles abusos de poder. Pienso por ello y he pensado siempre, que cualesquiera que sean los méritos individuales de cualquier hombre, toda manifestación de culto a la personalidad debe ser radicalmente evitada; que cualquier hombre, no importa qué aptitudes se le puedan atribuir, nunca será superior a la capacidad colectiva, que la dirección colegiada, el respeto irrestricto a la práctica de la crítica y la autocrítica, la legalidad socialista, la democracia y disciplina partidista y estatal y la inviolabilidad de las normas y las ideas básicas del marxismo-leninismo y el socialismo son los únicos valores sobre los cuales puede sostenerse una verdadera dirección revolucionaria.” *Id.*

organs. Consequently, the ideology, and the institutionalization of state and Party organs was not enough to conform to the core ideological requisite of mass solidarity. Though these organs of popular power that implemented the conceptualization of the Cuban economic and political model were developed under the leadership of and with the guidance of the PCC, it was also thought necessary to invoke a mechanism for the concrete expression of popular participation and approval.

That institutionalized expression of mass solidarity was to be undertaken in two ways. *The first was through an exercise of popular consultation.* That in turn served the purposes of obtaining feedback, but also as a mechanism for identifying popular sentiment and to socialize the masses as to the appropriate way to approach the political project undertaken through the leadership of the PCC. "For now, we are already discussing the Constitution of the Republic with all the people. The Constitution of the Republic took us almost 40 hours of analysis and discussion in the Preparatory Commission. Now the whole town is discussing it. Then we will have to analyze it again, taking into account the opinions and criteria that have been expressed. And we see with what interest the people have taken the discussion of the Constitution."<sup>108</sup> To that end, the state organized a comprehensive series of formalized discussion session where popular opinion was identified, gathered, and passed on in summary form.<sup>109</sup> And, in that respect the local mass organizations served a useful purpose to both organize mass engagement, and to discipline it.<sup>110</sup>

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<sup>108</sup> Castro Ruz, *supra* note 101 ("Por lo pronto, ya estamos discutiendo con todo el pueblo la Constitución de la República. La Constitución de la República nos llevó casi 40 horas de análisis y de discusión en la Comisión Preparatoria. Ahora la está discutiendo todo el pueblo. Después tendremos de nuevo que analizarla, tomando en cuenta las opiniones y los criterios que se han vertido. Y vemos con qué interés el pueblo ha tomado la discusión de la Constitución.")

<sup>109</sup> 1 JAN SUTER & DIETER NOHLEN, ELECTIONS IN THE AMERICAS 197 (Dieter Nohlen ed., 2005).

<sup>110</sup> Castro Ruz, *supra* note 104 ("Y, efectivamente, además de las tareas habituales, los Comités de Defensa han desarrollado un gran esfuerzo en apoyo de todas las actividades que se llevan a cabo en cumplimiento de los acuerdos del Primer Congreso. Fue necesario un arduo trabajo para organizar el referéndum en que se proclamó la Constitución Socialista de nuestro país; ha sido necesario también un ingente esfuerzo en todas las tareas relacionadas con la nueva División Político-Administrativa y la constitución de los Poderes Populares; todo el trabajo relacionado con los carnés de identidad, los registros de electores y la organización

*The second form of institutionalized expression of mass solidarity was to be undertaken by signs of mass approval of the final product developed from consultation and the work undertaken under the leadership of the PCC. This was to take two distinct but related forms, each evidencing the unique re-characterization of the devices in socialist terms. Indeed, at this initial phase of socialist mass participation (still too early to call it theorized socialist democracy), it was necessary to develop the character and nature of popular (mass) participation. The first modality for the expression of mass solidarity was through acclamation, and the expression of the unity of the people with the Party at mass events guided by PCC leadership. "But, in addition, this Congress has reflected the extraordinary unity of our people and our Party, and it has been a profoundly just and profoundly human Congress."<sup>111</sup> This acclamation device was to be manifested at mass events. The Cuban state apparatus was careful to record this manifestation. Again, a reminder of the critical portion of the address quoted at greater length above: "If there was in the "Karl Marx" the Congress of the Party met, here in the Plaza de la Revolución the People's Congress meets to express its support for the agreements of the Congress (applause). But if we vote there, we must vote here too (applause)."<sup>112</sup>*

*The second modality of the expression of mass solidarity was through the mechanism of voting. That required resort to the traditional device of elections, in the case of constitutional reform through the organization of a plebiscite in which the masses, under the leadership of the PCC, would express their approval of the work of*

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del proceso; el trabajo relacionado con la movilización de masas, las asambleas diferentes que hay que llevar a cabo. ¡Ahí han estado presentes los Comités de Defensa de la Revolución!").

<sup>111</sup> Fidel Castro Ruz, Commander in Chief of Cuba, Speech Delivered at the First Congress of the Communist Party of Cuba (Dec. 22, 1975), <http://www.cuba.cu/gobierno/discursos/1975/esp/c221275e.html> (Pero, además, este Congreso ha reflejado la extraordinaria unidad de nuestro pueblo y de nuestro Partido. Y ha sido un Congreso profundamente justo y profundamente humano.").

<sup>112</sup> *Id.* ("Si allí en el "Carlos Marx" se reunió el Congreso del Partido, aquí en la Plaza de la Revolución se reúne el Congreso del pueblo para expresar su apoyo a los acuerdos del Congreso (APLAUSOS). Pero si allí votamos, aquí debemos votar también (APLAUSOS).").

the PCC and its organs evidenced in the Constitutional draft (ostensibly amended in light of popular commentary). The referendum was held on 15 February 1976 and served as the first time since before 1959 that the Cuban people were permitted to participate in a nationwide vote. It was overwhelmingly approved.<sup>113</sup> This is not meant to be the same as elections in liberal democratic states, but to reflect the assent of the people to the product of the process in which they had a direct involvement. At the same time, it was said to close the transitional period, and to that extent, might have been thought to be consigned to that familiar dustbin of history. “Así dicho se obvia que la Constitución de 1976 significó el cierre del Período de Provisionalidad, interregno útil a la progresiva institucionalización del naciente Estado revolucionario, y que por lo tanto, algunas de las prescripciones constitucionales ya tenían precedente en leyes y prácticas políticas anterior<sup>114</sup>

### *E. The Template for Constitutional Plebiscite*

As is now clearer, by 1975, the Cuban revolutionary leading group was faced with a conundrum for the establishment of its

<sup>113</sup> As noted above in the data on the voting for the 1976 Cuba Constitution referendum. Kuba, 15. Februar 1976: Verfassung, DATABASE AND SEARCH ENGINE FOR DIRECT DEMOCRACY, <https://www.sudd.ch/event.php?lang=en&id=cu011976>.

<sup>114</sup> (Teodoro) Yan Guzman Hernández, *Los Mecanismos de Democracia Directa en Cuba: Diseño Normativo y Práctica*, 25 PERFILES LATINOAMERICANOS, 103, 103-127 (2017) (“El tránsito de la LF1959 a la Constitución de 1976 trajo consigo la única consulta popular en las urnas de la historia constitucional de Cuba; la decisión fue adoptada por el Consejo de Ministros y el Buró Político del Partido Comunista. Esa consulta fue calificada como referendo (Vega, 1988: p. 119; Azcuy, 2004: p. 83, Guancho, 2011: p. 42), y además de que se oficializó con esa denominación (Ley No 1229/1975), justo recayó sobre la Constitución vigente para su aprobación. Previamente se había sometido a debate popular el anteproyecto, por lo que el pueblo podía modificar su contenido; pero la mayoría de esos cambios fueron poco sustanciales, basta comparar el anteproyecto con la Constitución aprobada. \* \* \* Algunos consideran a esta consulta popular de aprobación de la Constitución cubana en 1975 como un plebiscito vinculante (Altman, 2005: p. 218; Hevia, 2010: p. 177), otros han minimizado la trascendencia del proceso de elaboración de la Constitución de 1976, que involucró una participación directa sui generis (el debate popular) con un MDD, arguyendo que este (el proceso en su totalidad) ocurrió en un ambiente autoritario (Vergottini, 2009: p. 146), o con falta de libertades públicas (Asensi, 1996: p. 63).”).

legitimacy. On the one hand, the revolutionary government was by 1975 firmly Marxist Leninist in a classically European sense. It had already made clear its rejection of the Chinese path toward Leninist state organization,<sup>115</sup> and it rejected any tilt of Marxist economics grounded in state directed markets theory.<sup>116</sup> On the other hand, its form embraced the original contradiction of Marxist-Leninist states – the centrality of class struggle and the primacy of worker-peasant solidarity given voice through the vanguard – required a more direct incorporation of popular participation directly in the constitution of the state and administrative apparatus, as well as in the formulation of the basic conceptualization of the economic and political model. Yet this engagement with the masses were to be undertaken even as a primary responsibility of the Leninist vanguard was to guide the masses toward a better understanding of its role within a Marxist state.

For the Cuban state leaders, the solution appeared in two tracks. On the one hand, ‘the masses were to be engaged in the process of formulating theory and institutional charters.’ On the other they were to ‘affirm or assent to the adoption of those documents—at the instance of the vanguard—through the traditional mechanics of voting.’ At the same time, engagement was understood to serve as a means of socializing the masses and leading them to a proper understanding of the tasks and of the necessary content of theory and the necessary character of the institutions of state and Party. Likewise, affirmation acts were not to be understood as liberal democratic elections or voting. Acclamation could be manifested in mass assemblies; and it could also be managed through referendum.

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<sup>115</sup> See Yinghong Cheng, *Sino-Cuban Relations During the Early Years of the Castro Regime, 1959–1966*, 9 J. OF COLD WAR STUD. 78, 78-114 (2007); William R. Garner, *The Sino-Soviet Ideological Struggle in Latin America*, 10 J. OF INTER-AM. STUD. 244, 244 (1968).

<sup>116</sup> These ideas were reaffirmed in the 4th PCC Congress. See, e.g., Javier Corrales, *The Gatekeeper State: Limited Economic Reforms and Regime Survival in Cuba, 1989–2002*, 39 LATIN AM. RES. REV. 35, 35-65 (2004) in DEBATING CUBAN EXCEPTIONALISM. STUDIES OF THE AMERICAS 61, 61-88 (Bert Hoffmann & Laurence Whitehead eds., 2007; Bert Hoffman, *Transformation and Continuity in Cuba*, 33 REV. OF RADICAL POL. ECON. 1, 1-20 (2001)). See, e.g., Al Campbell, *Planning in Cuba Today*, 34 INT’L J. OF POL. ECON. 65, 65-83 (2014) (for a discussion of the embrace of central planning and the rejection of markets from the 1970s).

The process of constitutionalizing the state around the paramount political leadership of the Cuban Communist Party (PCC) undertaken during the course of the 1st POC Congress, the process of managing popular engagement, of responding to that engagement with changes to draft documents, and thereafter of securing mass approval, set the template for each of these action in the future. For us—as we undertake the close study of the process of securing constitutional revision—first through the leading elements of the PCC, then through drafting committee and POC Congress, and then through the organization of mass power, to popular consultation and thereafter to be affirmed through a national plebiscite, the actions of state and party in 1975 provide both a baseline and the conceptual starting point for the eventual development of Cuban theories of Socialist Democracy.<sup>117</sup>

At the same time, it is important to distinguish constitutionalizing action separated by almost a generation, and made more remote by the profound changed in the world as well as in Cuba since the adoption of the 1976 Constitution and the organization of the institutional structures of the PCC. For one thing, that branch of Soviet Marxist Leninism has withered on the vine.<sup>118</sup> Its last real theorist, however, was Fidel Castro himself.<sup>119</sup> Yet Cuba's own engagement with Leninism as the remnant of Soviet ideology has been profoundly challenged both by regional changes and by the vigorous development of 21st century Chinese Marxist Leninism. China provides both support and inspiration, but at the same time a challenge to Cuban ideology. That challenge intensifies to the extent to which Cuba remains committed to classic class struggle, continues to reject the market as inherently a device of capitalist imperialism, and continues to define itself against the United States (as the ultimate 'other'). At the same time, China's influence has grown as its interest in Cuba has deepened and as its international importance has expanded. Moreover, by 2018, the

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<sup>117</sup> See William M. Leogrande, *The Communist Party of Cuba Since the First Congress*, 12 J. OF LATIN AM. STUD. 397, 397-419 (1980); Wiliam M. Leogrande, *Party Development in Revolutionary Cuba*, 21 J. OF INTER-AM. STUD. AND WORLD AFF. 457, 457-480 (1979) (on the process of producing the work of the 1st PCC Congress and the role of the various stakeholders in Cuba).

<sup>118</sup> FRANCIS FUKUYAMA, *THE END OF HISTORY AND THE LAST MAN* (1992) (recounting this most famously from a Western perspective).

<sup>119</sup> BACKER, *supra* note 3.

PCC itself had already developed quite distinct markers of participation that went well beyond the highly controlled engagement that was at the center of mass participation in 1975.

Thus, it is important to start with 1975 as the baseline for methodologies, and perhaps theories of mass participation. At the same time, those baseline templates were themselves transformed starting with the movement, after Raúl Castro's assumption of apex authority within the FAR and the PCC, and the development of more open textured (by Cuban standards) methods for popular engagement in what became the PCC's *Lineamientos*, and thereafter its reconceptualization of the political and economic model, and now the 2019 Constitution. What are the central elements of that template? The central elements of this template begin when Cuba's PCC adopted something that to American eyes appears to look suspiciously like a corporate governance model, one grounded in the fundamental principle that a core leadership is vested with the authority to manage the affairs of state solely in the interests of the collective (shareholders) with the day to day work of administration undertaken by its officers (or officials).<sup>120</sup> That translates in Leninist terms to the following—all political change must originate in the PCC. At the same time the PCC is constrained by its own line to the sorts of political projects it might initiate, as well as with respect to its contents.

Legitimacy requires affirmation by the masses, the way the key board proposals require shareholder approval.<sup>121</sup> The object of this

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<sup>120</sup> See, e.g., Melvin A. Eisenberg, *An Overview of the Principles of Corporate Governance*, 48 THE BUS. LAW. 1271 (1993) (on this standard governance model of corporations). See Harold Seidman, *The Theory of the Autonomous Government Corporation: A Critical Appraisal*, 12 PUB. ADMIN. REV. 89 (1952) (on the theorization of political power as a corporation, and the American model of domestic governance).

<sup>121</sup> SCOTT BOWMAN, *MODERN CORPORATION AND AMERICAN POLITICAL THOUGHT: LAW, POWER, AND IDEOLOGY* (2010) (analyzing this and other analogies in detail). Here, one makes a connection not just between models of liberal democratic politics but also with its principles of corporate governance. See, e.g., John Pound, *The Rise of the Political Model of Corporate Governance and Corporate Control*, 8 N.Y.U. L. REV. 1003 (1993). But the model does not run solely from the political to the corporate—it can run the other way as well—so as corporate governance is sometimes said to embrace the ideologies of the liberal democracies (see Lisa M. Fairfax, *The Future of Shareholder Democracy*, 84 IND. L.J. 1259 (2009) (for an example with respect to shareholder democracy principles), states may also adopt



approval under the guidance of the PCC, is in part to legitimate the PCC's work, but also to educate the masses and move the PCC's project forward of socializing the masses into appropriate class consciousness and thus of advancing their loyalty to the revolution and its principles. To that extent, and again borrowing an analogy from American corporate practice—engagement was to be structured and managed in ways that contemporary Americans would recognize as corporate or small town "town hall meetings".<sup>122</sup> One of us have referred to this as Populist Technocracy and Engagement.<sup>123</sup> In this context, Western references to the USSR incorporated,<sup>124</sup> or China, Inc.,<sup>125</sup> assume a constitutional or at least a normatively constitutive dimension.

The Constitution follows the development of political principle and remains subordinate to those principles. In this sense, the constitution memorializes the normative structures the control of which is delegated to the PCC and the content of which is subject to its own development of Marxism and Leninism in context.<sup>126</sup> As such, constitutional reform is both a consequential event (and in this sense a technical rather than a normative project) and constrained by core premises and principles which may not be

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corporate governance principles in their operations (through delegations of broad authority to leadership collectives onto which substantial discretionary power is vested).

<sup>122</sup> See Gary Tomlinson, *Building a Culture of High Employee Engagement*, 3 STRATEGIC HUMAN RESOURCES REV. 25 (2010) (on the impact of town hall meetings on employee morale). See also Interview by Jim Blasingame with Harold Lacy (Jan. 11, 1999), <https://www.smallbusinessadvocate.com/small-business-interviews/harold-lacy-2>; William Hubbart, "Town Hall" Meetings Good For Employee Morale, THE SMALL BUSINESS ADVOCATE (Apr. 15, 2003), <https://www.smallbusinessadvocate.com/small-business-articles/town-hall-meetings-good-for-employee-morale-2>.

<sup>123</sup> Larry Catá Backer, *On the Practice of Town Hall Meetings in Shared Governance – Populist Technocracy and Engagement at Penn State*, MONITORING UNIVERSITY GOVERNANCE (June 17, 2015), <https://lcbpsusenate.blogspot.com/2015/06/on-practice-of-town-hall-meetings-in.html> (last visited Aug. 6, 2019).

<sup>124</sup> See, e.g., T. H. Rigby, *Staffing USSR Incorporated: The Origins of the Nomenklatura System*, 40 J. OF SOVIET STUD. 523, 523-537 (1988).

<sup>125</sup> See, e.g., TED FISHMAN, *CHINA, INC.: HOW THE RISE OF THE NEXT SUPERPOWER CHALLENGES AMERICA AND THE WORLD* (Scribner, 2006).

<sup>126</sup> See, e.g., Larry Catá Backer, *Party, People, Government, and State: On Constitutional Values and the Legitimacy of the Chinese State-Party Rule of Law System*, 30 BOS. U. INT'L L. J. 331, 331-408 (2012) (in the Chinese context).

challenged through the process of constitutional reform. The basic relationship between constitutional reform and the PCC political line, then constrains and shapes the nature of popular engagement (by defining what may or may not be suggested) and by then providing the mechanisms for weighing the value of such contributions. It is in that sense that any engagement in which suggestions for the abandonment of central planning (for example) would just not register on those charged with receiving popular suggestions.

Still, nothing is sacred about the forms of popular affirmation. Mass events are as legitimate as traditional voting. Moreover, mass engagement must be organized through the institutions of mass revolutionary discipline—for example the committees for the Defense of the Revolution, who themselves are committed to moving forward the PCC line against "reactionary" and dissident elements. It is in that sense that one could conceive of the process as entirely democratic, even as it severely constrained by the form and content of debate. It is also important to note that the notion of affirmation itself is understood as ministerial in the sense that it follows from and ought to reflect the popular 'buy in' resulting from the process of mass engagement in the development of the final draft. It is in that sense unnecessary and the understanding is that only those things (and candidates) that must be approved or affirmed would be brought to a vote in the first place.<sup>127</sup> Socialist consultation produces the consensus and agreement which is a predicate for a vote that merely serves as a mechanism for memorializing that consensus through a discrete mass act (of voting).

And in the end, Fidel Castro could look at the institutionalization of revolutionary political power in the PCC, and popular power in the Nacional Asamble and see the

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<sup>127</sup> After the fall of the Soviet Union, the notion of pre-approval of candidates by the ruling Party has been more or less ignored by scholarship, even though a similar system is still practiced in China. Scholarship has instead examined notions of managed democracy, a more or less direct derivation of the pre-existing system. See TIMOTHY J. COLTON & MICHAEL MCFAUL, *POPULAR CHOICE AND MANAGED DEMOCRACY: THE RUSSIAN ELECTIONS OF 1999 AND 2000* (2003) (on Russia). See also QINGSHAN FORREST TAN, *VILLAGE ELECTIONS IN CHINA: DEMOCRATIZING THE COUNTRYSIDE* (2006) (on China).

perpetuation of a singular popular authority. "Our revolutionary process was, from the beginning, profoundly popular and solidly rooted in the masses. The first sovereign act of the people was the revolution itself."<sup>128</sup> But these institutions did not spring forward fully formed from the theoretical droppings of Leninist theory applied elsewhere (though those might prove useful post hoc). We have already encountered the challenge perceived by the Cuban revolutionary government after the 2nd Havana Declaration respecting the modalities of mass approval assemblies and the beginnings of efforts to change the model without endangering (at least at a general level) its theoretical (and ideological) premises. Those experiments reached a threshold of success in the years immediately before they were nationalized through during the 1st PCC Congress and then memorialized in the 1976 Constitution. Fidel Castro noted their importance in key speeches from 1974, referencing for example, the Poderes Populares experiment in Matanzas Province. "And another important reason, the emphasis that the Revolution desires to give this most important revolutionary experiment that is being realized in Matanzas Province with the constitution of the Poderes Populares, that you people of Matanzas have embraced with such enthusiasm and have supported so warmly."<sup>129</sup>

That experiment could be seen as producing a template for the creation of local, provincial and national popular assemblies, and in the process replace the mechanism of mass affirmation of the people physically present in a large space with a representative body. But that movement also triggered the fundamental contradiction of representative assemblies—the notion that they could not in form or operation, replicate the corruption and class exploitation principles of the form which the revolutionary government had attacked with such force in the course of the genesis of the two Havana declarations. And thus, the need for

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<sup>128</sup> Translated from Discurso Pronunciado Por Fidel Castro Ruz, Presidente De La República De Cuba, En La Sesión Solemne De Constitución De La Asamblea Nacional Del Poder Popular, Celebrada En El Teatro "Carlos Marx", El 2 De Diciembre De 1976, "Año Del Xx Aniversario Del Granma". [The Solemn Session of the Constitution of the National Assembly of the Popular Power] (Dec. 2, 1976) (Statement by Fidel Castro Ruz, President of the Republic of Cuba) (available at: <http://www.cuba.cu/gobierno/discursos/1976/esp/f021276e.html>).

<sup>129</sup> Translated from *id.*

experiment—in its pragmatic but also its fundamental ideological dimensions.

As you know, a decision was taken to undertake this experiment in this province [Matanzas]. It was an experiment in a sense, but not one respecting the decision [to proceed itself] or [respecting the] security of our Party to carry forward these ideas throughout the country; the experiment is precisely to put to the test the methods, the mechanisms, the regulations and everything that concerns the constitution of the Popular Powers before applying it nationally. That is, the experiment will teach us to perfect the idea; but the idea is to apply these principles to the entire country.<sup>130</sup>

Part of that also involved the so-called rationalization of the provinces, a process that required the subdivision of the traditional provinces. The object in part was to make more practical the division of provincial popular assemblies in the service of locality, state and PCC. "One becomes a little sentimental when one thinks about dividing some of the provinces, but tied to that issue is the question of the organization of Poderes Populares [popular assemblies]. For the adequate establishment of the Poderes Populares it is necessary for the size and extent of provinces to be more rational."<sup>131</sup>

Implicit in that rationalization were two insights with political effect. The first was that mass assemblies could not be relied on for the exercise of popular affirmation of PCC leadership. The second was that such assemblies would have to be institutionalized if they were to serve the PCC and the administrative apparatus in an ideologically useful way. That sovereign affirmation could then be

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<sup>130</sup> Translated from *id.*

<sup>131</sup> Translated from Discurso Pronunciado Por El Comandante En Jefe Fidel Castro Ruz, Primer Secretario Del Comité Central Del Partido Comunista De Cuba Y Primer Ministro Del Gobierno Revolucionario, En El Acto Central En Conmemoración Del Xxi Aniversario Del Ataque Al Cuartel Moncada, Efectuado En La Explanada Frente Al Estado Mayor Del Ejército Central, En Matanzas, El 26 De Julio De 1974, "Año Del Xv Aniversario". Fidel Castro Ruz, Commander in Chief of Cuba, Speech delivered to the City of Santa Clara (Jul. 26, 1975), available at: <http://www.cuba.cu/gobierno/discursos/1975/esp/f260775e.html>.

utilized to reconstitute itself pragmatically along institutional lines, but one in which sovereign power remains undivided. "Power is unified, that of the workers, which is exercised through the National Assembly and the state organs which depend on it."<sup>132</sup>

All of these centripetal forces, the experimentation in large part in reaction to outside and internal challenges, produced a long-term process of solidification the contours of which might have been evident early on, but the character of which eventually also represented the culmination of reactionary political calculus. Note here that this is not to suggest ideological reaction; rather the focus is on the nature of the relational dynamics between the revolutionary apparatus and the challenges which it confronted in its formative years. Those dynamics were politically reactionary (one responds pragmatically to political challenges) even as they became, in political reaction, ideologically the opposite. To that end, this leads to the development of what we call Cuba's Socialist Democracy 1.0, which is the outcome of the internal challenges that we have discussed thus far.

#### *F. Socialist Democracy 1.0.*

From the late mid-1960s, the search for a form of a collective decision-making alternative to multi-party elections proceeded on two different levels. At the grassroots-level, the format of the plebiscite was maintained and adopted on a much smaller scale, through the formation of committees representing neighborhoods, and other groups defined along the lines of class, gender, and age.<sup>133</sup> At the national level, the spontaneity of experiments in socialist democracy was encased within a governance model of Leninist derivation, emphasizing vertical lines of authority. Governance structures realized through political and legal cooperation with the Soviet Union were layered over the earlier revolutionary and classically Socialist substratum.

Without doubt, a decisive role in this process was played by the merger of Castro's 26th of July movement with the Popular

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<sup>132</sup> Translated from *id.*

<sup>133</sup> Translated from Rojas *supra* note 65; cf. Buch, *supra* note 66.

Socialist Party and the Revolutionary Director, and the pouring of these Caribbean identities in the vessel of the Cuban Communist Party. These choices posed the revolutionary government with the responsibility to continue to articulate autonomous notions of exogenous socialist democracy, while complying with Muscovite governance methods based on endogenous socialist democracy. The transition to a Soviet-inspired model of state and societal governance was largely foreseeable. Muscovite prescriptions had already been adopted by the People's Republic of China, North Korea, and Eastern Europe, albeit with varying degrees of success and efficiency.

Less foreseeable, was the temporary side-lining of exogenous forms of socialist democracy. Institutionalization and the creation of the *Asamblea Nacional del Poder Popular* were meant to make the workings of the Cuban administrative machinery more manageable and efficient, regular, and predictable. The result was a measure of compliance with the Soviet model of State governance.<sup>134</sup> The features common to Soviet forms of endogenous democracy and the Cuban Revolution however did not extend beyond limitation of the *demos* along class lines, and leadership by a group or a leader that personified the Revolution.<sup>135</sup> Therefore, an ample space existed to combine Cuban notions of endogenous socialist democracy with practices based on the Soviet model. Cuba was the only country within the Socialist camp where mass affirmation events with a constitutive character were held.<sup>136</sup> In

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<sup>134</sup> Castro Ruz, *supra* note 101 (Here, direct references to the Soviet version of Socialist ideology abound, with the name of Karl Marx being mentioned 7 times, that of Lenin 4 times and the Soviet Union characterized as the head of world progressivist forces. Such references to Soviet ideology were absent from both the First and the Second Havana declarations, where Castro instead mounted a vigorous defense of the Cuban nature of the revolution.).

<sup>135</sup> See LESZEK KOŁAKOWSKI, MAIN CURRENTS OF MARXISM 792 (P. S. Falla trans., 2d ed. 1978).

<sup>136</sup> Michael Bothe, *The 1968 Constitution of East Germany: A Codification of Marxist-Leninist Ideas on State and Government*, 17 AM. J. COMP. L. 268, 268-291 (1969) (No other country adhering to the Soviet Bloc organized a popular referendum between the end of World War II, and the fall of the Soviet Union. The only exception was the 1968 constitutional referendum held in the German Democratic Republic. Despite its formal similarities with the Cuban referendum of 1976, this referendum did not play the same role in the construction of notions of socialist democracy. By 1968, the GDR had already fully articulated local conceptions of socialist democracy.).

China, the invocation of the sovereign will of the people had often resulted in the undoing of governance institutions, rather than to their creation. In the German Democratic Republic, political parties were established to provide a safe haven to former Nazis, displaced populations, and other categories. Differently from Cuban revolutionary assemblies, these parties were not a source of constituent power, and therefore their approval of decisions taken by the leadership was scarcely relevant.

In Cuba, the adoption of enduring institutional forms took place with an overhaul of the 1959 *Ley Fundamental*, and promulgation of a new Constitution. The 1976 Constitution in turn could not come to life without an act of sovereign approval by the people. Given the absence of viable models within the Socialist camp, institutionalization of mass approval proceeded along the path traced by revolutionary practices of mass democracy, the 1940 Constitution,<sup>137</sup> and the *Ley Fundamental*.<sup>138</sup> The manifestation of the sovereign, constitutive will of the people developed along two partially distinct lines. The first one of them saw approbation of decisions taken by the leadership of the Communist Party of Cuba on behalf of the entire people. The second line of development involved popular consultation and referendum vote. An instance of approbation is given by the vote on the resolutions of the First Congress of the CPC. The rally that took place on the *Plaza de la Revolución* in December 1975<sup>139</sup> was not a constitutive rally, given manifestations of constitutive power were no longer necessary in the face of institutionalization.

More significant was Cuba's choice to preserve the referendum as a legitimate channel through which the sovereign will of the people could continue to find a constructive expression. Such a decision stemmed not from an unwilling retention of models inspired by liberal democratic constitutional theory,<sup>140</sup> but by the difficulties in representation caused by mass rallies. If Fidel was

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<sup>137</sup> Cuba's Constitution of 1976 with Amendments Through 2002, CONSTITUTE PROJECT (2019), [https://www.constituteproject.org/constitution/Cuba\\_2002.pdf?lang=en](https://www.constituteproject.org/constitution/Cuba_2002.pdf?lang=en).

<sup>138</sup> *Id.* at art.27-28.

<sup>139</sup> Castro Ruz, *supra* note 111.

<sup>140</sup> REPUBLICA DE CUBA CONSTITUCIÓN POLITICA DE 1940 (Jul. 1, 1940), available at <http://pdba.georgetown.edu/Constitutions/Cuba/cuba1940.html>.

searching for forms of “pure” - “pasteurized”, in his words - democracy, it soon became clear that mass rallies had limitations not compatible with the principles of Cuban socialist democracy. The constitutive and non-constitutive mass rallies held until the mid-1970s could include fellow Latin Americans in the *demos*, bestowing Cuban political citizenship on persons of non-Cuban nationality. But Cubans who lived in the Eastern provinces of the Island were routinely excluded from mass events taking place in Havana. Their absence was due not to a rejection of their role within socialist democracy, but to their mere inability to travel to Havana. Thus, they found themselves in a position analogous to those whom, in liberal democracies, could not exert their right to vote due to illiteracy, poverty, or other socio-economic hurdles.

A solution was found in submitting the Draft Constitution to popular consultation, and then to popular vote. These more regular, orderly events could provide the opportunity to participate in decision-making to all those who lived in Cuba. The soliciting of popular comments on the Draft Constitution took place simultaneous to the holding of the First Congress of the Communist Party of Cuba, in the spring of 1975.<sup>141</sup> To ensure an effective participation by the people, these two events had to occur at the same time. The resolution to hold the referendum was conveyed through the Central Committee of the Communist Party of Cuba. The Central Committee noted how:<sup>142</sup>

The First Congress of the Communist Party of Cuba, in consequence, gives its approval to the improved text of the Draft Constitution and recommends that it be officially published as the Constitution Project of the Republic and submitted by referendum to the universal, free and secret vote of citizens, together with the Constitutional Transit Bill; that the referendum be organized so that all citizens with the right to vote have the opportunity to vote in it, for which polling places must

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<sup>141</sup> Fidel Castro Ruz, Commander in Chief of Cuba, Speech Delivered at First Party Congress (May 29, 1975), (available at: <http://lanic.utexas.edu/project/castro/db/1975/19750529.html>).

<sup>142</sup> I CONGRESSO DEL PCC: TESIS Y RESOLUCIONES SOBRE LA CONSTITUCIÓN Y LEY DE TRÁNSITO CONSTITUCIONAL, citing Granma (Dec. 26, 1975), at 3.



be established with reference not only to domicile, but also to where the voters are located ( . . . )<sup>143</sup>

This solution preserved the truly essential features of earlier forms of exogenous socialist democracy. These were popular participation, and leadership responsibility towards the people. Popular participation occurred by comments on the Draft Constitution – a process that other Marxist-Leninist systems would launch much later in China when the government began to increase the role of market mechanisms in the economic systems during the State-owned enterprise reform of 1979. If data about unofficial comments made during the popular consultation on the 2018 Constitution is available, the same information is not available for the 1976 consultation. The feature of leadership responsibility towards the people, however, is visible in the results of the 1976 referendum.

Popular choice was strongly in favor of the new Constitution. On 15th February 1976, 5,602,973 Cuban citizens went to the polls. The voter turnout was of 98 percent. Of 5,523,604 valid votes, 99.02 percent were in favor of the Socialist constitution,<sup>144</sup> and only 54,070 votes against it. 44,221 ballots were blank, and 31,148 were annulled. The object of the plebiscite was not to secure a majority vote. Majoritarian vote is a feature of multi-party systems. Within a Socialist democracy, vote is instead designed to provide a signal of the extent to which the Party in power is able to effectively fulfil its responsibility of leading the population towards their chosen path of development. As seen from this perspective, all votes are of equal importance, included the 54,070 votes against the 1976 Constitution, blank and invalid ballots. Votes approving the 1976 Constitution signaled how 99.02 per cent of Cubans believed the Communist Party of Cuba pursued the trajectory of change chosen by the people in the best possible way. The other

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<sup>143</sup> Larry Catá Backer, *Part I (Caribbean Socialist Democracy 1.0; the 1976 Constitution) Caribbean Marxism's Socialist Democracy Series, Considering the Cuban Constitutional Project, From Communist Party to Popular Plebiscite*, LAW AT THE END OF THE DAY (Feb. 22, 2019, 11:16 PM), <http://lcbackerblog.blogspot.com/2019/02/part-i-caribbean-socialist-democracy-10.html>.

<sup>144</sup> Beat Müller, Kuba, 15. February 1976: Verfassung [Cuba, Feb 15, 1976: Constitution], <https://www.sudd.ch/event.php?lang=en&id=cu011976> (last visited Aug. 6, 2019) (Ger.).

129,439 votes signaled how an equal number of Cubans thought that a fine-tuning or re-adjustment in the methods chosen to realize Cuba's path of development may have been necessary. Electoral choice then was not performed to approve or deny the leadership role of the Communist Party of Cuba, but to provide and obtain feed-back on specific methods of governance. After all the 1976 Constitutional referendum saw Cubans vote on a document they had contributed to making through the popular consultation. Therefore any vote on the Constitution was, in its truest essence, a vote about one's own goals, and an opinion on the suitability of the means chosen to achieve those goals.

The Constitution of 1976 "conceived of Popular Power as an organizational structure of the State, and popular sovereignty and socialist democracy"<sup>145</sup> as the basic principles of Caribbean *Marxism-Leninism*. The notion of popular power as an organizational structure of the state was enshrined throughout the Preamble. The most immediate effect of this act of approval was encasing popular consultations and referendums within the structure of the *Asamblea Nacional del Poder Popular*. Popular will should have undergone the same process of institutionalization and regularization witnessed by other organizational structures of Cuba's governance apparatus. After all, the logic behind the Leninist model was geared towards a clockwork regularity and predictability of governance processes, and such was also Castro's aspiration.

SOCIALIST CONSULTATIVE DEMOCRACY 2.0, THE 2019 CUBAN  
CONSTITUTIONAL PROJECT AND ITS HISTORICAL-IDEOLOGICAL  
CONTEXT.

With the transition of government from Fidel to Raúl Castro, Cuba saw a more conscious revival of the role of popular affirmation in the construction of a political relationship between the collective masses and the core governing political vanguard. But that revival was undertaken in coordination with renewed measures for popular consultations both through the *Asamblea* as

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<sup>145</sup> (Teodoro) Yan Guzman Hernández, *supra* note 114, at 104.

a representative organ, and for important matters, for direct consultations. If it is clear that popular affirmation is incorporated as an important element of Cuban political practice, it is less clear what popular affirmation is, and why Cuba's mechanisms of choice are those of the popular consultation and of the referendum.

*A. The Road from Socialist Consultative Democracy 1.0 to 2.0.*

The core element in the institutionalization of the Cuban revolutionary government, and its establishment of its Socialist Democracy 1.0, centered on the formal sidelining of mass popular gatherings (whose use had been serendipitous since the early 1960s in any case), and on the substitution of the *Asamblea Nacional* as an institutional form for popular expression. That substitution, however, brought the revolutionary government to adopt the *forms* of liberal democratic representation and in the process, it also brought the revolutionary government perilously close to the adoption of the principles of liberal democratic governmental organization. The revolutionary government was to some extent sensitive to these issues in 1976, and Fidel Castro went out of his way to declare the difference between the forms of liberal democratic legislatures and those of the *Asamblea Nacional*.<sup>146</sup>

And not just Fidel Castro. Early on Raúl Castro also sought to articulate Soviet Leninist principles to legitimate the construction of a system under the leadership of the vanguard party, but also one that necessarily was dependent on a relationship between the vanguard and the masses (starting with the proletariat, of course, in a political worldview shaped by classical Soviet notions of class struggle (again without reference to failures of implementation)). In a speech given May 4, 1973, Raúl Castro emphasized an approach that sought to distance the institutions of proletarian dictatorship from the dictatorship of a legislature in liberal democracies.

But the dictatorship of the proletariat is not limited in the least to the important and main role that the Party must

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<sup>146</sup> Castro Ruz, *supra* note 39.

play. The Party is only the vanguard minority of the most advanced social class in charge of leading and carrying on its shoulders the bulk of the weight in the construction of socialism. Therefore, in order to exercise its leading role vis-à-vis the entire society, the Party relies on the state, the mass organizations and, when necessary, on the direct mobilization of the working masses. The most ideal and direct instrument for exercising control of society is not a political party, but rather the state, an apparatus without which neither the dictatorship nor the fulfillment of the tasks of socialist construction are possible. In addition to the Party and the state, the complete system of the dictatorship of the proletariat includes the mass organizations, which Lenin called “transmission belts” that group together one or many sectors of society’s revolutionary forces: the trade unions, youth, women’s and peasants’ organizations, the Committees for the Defense of Revolution, students and Pioneers. In an article written in December 1920, Lenin said that the dictatorship “cannot work without a number of ‘transmission belts’ running from the vanguard to the mass of the advanced class, and from the latter to the mass of the working people.”<sup>147</sup>

These notions were built into the mutually reinforcing provisions of the 1976 Constitution (revised 2002) which provided on the one hand, in Article 5, that “The Communist Party of Cuba, Martian and of Marxist-Leninist, the organized vanguard of the Cuban nation, is the superior leading force of the society and the State, organizing and guiding the common efforts aimed at the highest goals of the construction of socialism and advancement toward the communist society.”<sup>148</sup> On the other hand, the 1976

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<sup>147</sup> Raúl Castro, Commander of the Revolutionary Armed Forces, Speech delivered to cadres and officials of the Central Committee of the Communist Party of Cuba (May 4, 1973) (transcript available at <https://liberationschool.org/07-03-01-democratic-centralism-in-communi-html/>).

<sup>148</sup> CUBA CONST. Art. 5 (1976), as amended through 2002 (Constitution Project trans.), ([https://www.constituteproject.org/constitution/Cuba\\_2002.pdf?lang=en](https://www.constituteproject.org/constitution/Cuba_2002.pdf?lang=en)) (In the original: “[El Partido Comunista de Cuba, martiano y marxista-leninista, vanguardia organizada de la nación cubana, es la fuerza dirigente superior de la

Constitution also provided, in Article 69, that "The National Assembly of People's Power is the supreme organ of State power and represents and expresses the sovereign will of all the working people."<sup>149</sup> And, in Article 70, it provided that "The National Assembly of People's Power is the only organ in the Republic invested with constituent and legislative authority."<sup>150</sup>

And yet the problem remained – and grew substantially in the period between 1986 and 2008 when direct popular affirmation and engagement became a vestigial part of the operation of the administrative apparatus of the state.<sup>151</sup> The core operating system, the political-economic model guiding state action was established in the course of the 4<sup>th</sup> PCC Congress, which cemented the notion of central planning as the core of macro-economic policy and the vanguard role of the PCC as both leader and operator of the state.<sup>152</sup> Both consultation and engagement was telescoped into the Asamblea Nacional and, to the extent useful, the mass organizations already operating under the leadership of the PCC.<sup>153</sup>

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sociedad y del Estado, que organiza y orienta los esfuerzos comunes hacia los altos fines de la construcción del socialismo y el avance hacia la sociedad comunista.").

<sup>149</sup> CUBA CONST. Art. 69 (1976), as amended through 2002 (Constitution Project trans.),

([https://www.constituteproject.org/constitution/Cuba\\_2002.pdf?lang=en](https://www.constituteproject.org/constitution/Cuba_2002.pdf?lang=en)) (In the original: "La Asamblea Nacional del Poder Popular es el órgano supremo del poder del Estado. Representa y expresa la voluntad soberana de todo el pueblo.").

<sup>150</sup> CUBA CONST. Art. 70 (1976), as amended through 2002 (Constitution Project trans.),

([https://www.constituteproject.org/constitution/Cuba\\_2002.pdf?lang=en](https://www.constituteproject.org/constitution/Cuba_2002.pdf?lang=en)) (In the original: "La Asamblea Nacional del Poder Popular es el único órgano con potestad constituyente y legislativa en la República.").

<sup>151</sup> See, e.g., Jorge I. Domínguez, *Cuba in the 1980s*, 65:1 FOREIGN AFFAIRS 118 (1986) (on the operation of the Cuban State-Party system after the 1970s); Juan M. Del Águila, *Reflections on a Non-transition in Cuba: Comments on Elites*, 9 CUBA IN TRANSITION 192 (1999); see generally PHILIP BRENNER, MARGUERITE ROSE JIMÉNEZ, JOHN M. KIRK & WILLIAM M. LEOGRANDE, EDS., *A CONTEMPORARY CUBA READER: REINVENTING THE REVOLUTION* (2007); JORGE I. DOMÍNGUEZ, *CUBA: ORDER AND REVOLUTION* (2009).

<sup>152</sup> See, e.g., GAIL REED, *ISLAND IN THE STORM: THE CUBAN COMMUNIST PARTY'S FOURTH CONGRESS* (1992)(on the 4th PCC Congress); Juan M. Del Águila, *The Party, the Fourth Congress, and the Process of Counter-Reform*, CUBAN STUDIES 71 (1993).

<sup>153</sup> As for instance the Committees for the Defense of the Revolution (Comités de Defensa de la Revolución), the Federation of Cuban Women (Federación de Mujeres Cubanas), etc. See generally, Benigno E. Aguirre, *The Conventionalization of Collective Behavior in Cuba*, 90 AMERICAN JOURNAL OF SOCIOLOGY 541 (1984)(on mass

This was ironic, especially since this period of institutional stability was also marked by periods of great political instability, great crises, culminating in the disappearance of the Soviet Union and the trials of the so-called "Special Period."<sup>154</sup> And yet, it was precisely during these periods that neither engagement nor consultation outside the organs established by the 1<sup>st</sup> PCC Congress was attempted.<sup>155</sup> More telling was the paucity of theoretical development after the 4<sup>th</sup> PCC Congress on either point.<sup>156</sup>

At first glance, the problem appears centered on a concern about the corruption of the system from a "right" perspective – that is that the national assembly system does not work because one cannot extricate the form of the national assembly institution from the liberal democratic ideals of representative democracy. If that is the case then any mechanism for representation necessarily requires autonomous choices by an electorate. And, indeed, that had been the way that even the revolutionary government approached the issue.

However, it is not clear that the primary problem of the national assembly system was the risk of the possibility of "rightist" error (that is the possibility that the national assembly system would be corrupted by and eventually transform itself into a corrupted form of a liberal democratic representative institution). That risk was both well understood, and at least partially theorized. To the extent

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organizations ); Benigno E. Aguirre, *Social Control in Cuba*, 44 *LATIN AMERICAN POLITICS AND SOCIETY* 67 (2002).

<sup>154</sup> Ernesto Perez Castillo, *Cuba's Special Period: the Bogeyman*, *HAVANA TIMES* (May 10, 2019) <https://havanatimes.org/opinion/cubas-special-period-the-bogeyman/>.

<sup>155</sup> The mechanisms of popular consultation and of the referendum, were not used during the special period, despite being the only legitimate channels of popular expression in the eyes of the Cuban leadership. The Central Committee of the PCC instead adopted a resolution endowing the Committee with special faculties (*facultades excepcionales*), essentially broad powers to adopt the political and economic decision needed to face the Special Period. See *Resolución que Faculta a Comité Central del Partido para Tomar las Decisiones en Correspondencia con la Situación que Vive el País*, GRANMA (Oct. 23,1991), at 6.

<sup>156</sup> The only document approved by the 4th Congress relevant to political participation was a resolution "On Perfecting the Organization and the Functioning of National Assemblies of People's Power" (*Sobre el perfeccionamiento de la organización y funcionamiento de los órganos del Poder Popular*). The resolution discussed only procedural aspects of the work of the ANPP.

that it continued to exist suggested, especially between 1976 and 2008, not so much a problem of theory as a problem of failures of operationalization. Those failures were either deliberate (the leadership apparatus was satisfied with the appearance of a mechanism for popular engagement on an institutional basis and its propaganda value was great enough), or evidence of a lack of capacity to transpose theory into the working style of the PCC and its state apparatus.

Instead, the more difficult problem for a system grounded in the notions of dictatorship of the proletariat within conditions of class struggle, and wary of the effects of the forms of liberal democracy comes from the "left" rather than the right. It is inherent in the constitution and working style of the PCC itself. Central to that problem is the role of democratic centralism as a core element of the way in which the PCC operates, and by extension of the form of core responsibility PCC members owe the organization in every aspect of their political work – either within PCC organs, or in their role in the state apparatus – including the Asamblea Nacional.

What does this mean? First, democratic centralism is an ancient principle central to the early development of Communist Party discipline with origins in the writing of Lenin, and then subject to some variation in its adoption by the Communist Parties of states worldwide. It provides, broadly, for substantial latitude in debate within the party (subject to a number of constraints as to time, place, manner and form that can also be used to eviscerate the democratic element of the concept in effect), but also the duty of all Party members of uphold and carry out the decisions of the Party once debate is ended and a vote taken. It suggests that at least within the Party, majority voting (in some places the emphasis is on consensus rather than majority take all voting) determines policy, but once policy is established or a decision taken then no deviation is possible, until the next time the issue comes up within the Party.

Second, the organization of the PCC is grounded on the central role of democratic centralism in its operation and working style.

Dicha forma de manifestación encuentra su formulación en los Estatutos aprobados en el Primer Congreso: “El Partido Comunista de Cuba se estructura orgánicamente y funciona de acuerdo con los principios del centralismo democrático, que permite combinar la más amplia democracia interna y el examen y análisis colectivo de los asuntos con la dirección centralizada, la libertad de discusión con la unidad ideológica, de voluntad, de organización y de acción de todo el Partido”, en ella se concreta orgánicamente la disciplina partidista, la participación política y el papel del dirigente.<sup>157</sup>

Third, the obligations of democratic centralism extend not just to obedience by Party members within the Party but also with respect to their work within state organs.

The Party directs the state, reviews its functioning and its fulfillment of the outlined directives and plans; it encourages, moves forward and contributes to the best work on the part of the entire state mechanism, but under no circumstances should the Party substitute for the state . . . . 5. It directs them through Party members who, regardless of where they work and the position they occupy, are obligated to fulfill and implement Party decisions and convince nonmembers of the fairness of these decisions and the need to follow them. 6. It directs them through the circumstances—necessary and inevitable for a long time—whereby the main leaders of

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<sup>157</sup> Eusebio Mariano Hernández García, *El Principio del Centralismo Democrático en el Proceso de Construcción y Desarrollo del Partido Comunista de Cuba: Su Relación con las Concepciones de Vladimir Ilich Lenin y Antonio Gramsci* (La Habana: Editorial Universitaria, 2015), at 67 [This form of manifestation is found in the Statutes approved by the 1st Congress: The Communist Party of Cuba is organically structured and functions in accordance with the principles of democratic centralism, that permits the amalgamation of the broadest form of internal democracy and the collective examination and analysis of matters with centralized direction, liberty of discussion within an ideological unity, of good will and of the organization and action of the entire Party, in which is made organically concrete party discipline, political participation and the leadership role of the Party.]



the Party, or at least the majority of them, are also the main leaders of the state.<sup>158</sup>

Fourth, where a majority of the members of the Asamblea Nacional are also members of the PCC or its related organs,<sup>159</sup> those members must under core principles of democratic centralism uphold the decisions of the PCC; they represent the Party and act in their role as members of the representative vanguard within the organs of state (and popular) power.

Fifth, as the graphic above and at the start of this post suggest, the great majority of members of the representative assembly are subject to the obligations of democratic centralism. If that is the case, then the Asamblea Nacional can lose its character as the institution in which the engagement with the masses can be focused, and rather becomes the site where PCC members may consider the application of PCC policy decisions through state organs.

Sixth, in that case, then popular assembly may lose its character as the site of popular affirmation of PCC policy and decisions. It becomes something else. That something else in part is as the site of the transposition of PCC policy and ideology into the concrete forms of administrative acts. It becomes a legislature. This is not a surprise – it was so constructed even within the 1976 Constitution.

Seventh, but so reconstituted, the *Asamblea Nacional* inevitably loses its character as the site of mass expression – even if limited under principles of class struggle to the site of proletariat mass assembly. It becomes both the site of parliamentary legislation (the rightist turn) as well as the administrative expression of the Party itself (the leftist turn). The effect is to create an organ of popular assembly that is itself in reality the expression of the supreme representative capacity of the Party as the expression of the will of the proletariat (and thus back to the dictatorship of the proletariat conception).

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<sup>158</sup> Raúl Castro, *supra* note 149.

<sup>159</sup> See Parlamento Cubano – IX Legislatura, INVENTARIO (Mar. 16, 2019), <https://proyectoinventario.org/parlamento-cuba-ix-legislatura-anpp/>.

Eighth, as a result, there is still a need for some mechanism for the expression of popular affirmation of the politics and administrative expression of governance directed by the PCC as organized vanguard of the Cuban nation. We wind up where we started—a Marxist Leninist system in need of a means of a mechanism for popular affirmation, and a theory of when such acts of popular affirmation are required.

Ninth, the baseline solution proved ironic as well. The *Reglamentos de la Asamblea Nacional del Poder Popular de la República de Cuba*<sup>160</sup> provided two consequential mechanisms for popular consultation beyond the actions of the Party-in-State apparatus of the *Asamblea Nacional*. First, the mechanisms of popular affirmation are preserved, though now bound by a fairly ambiguous cage of regulation. Article 4 delegates to the Asamblea the power to hold popular referenda when required by the constitution or otherwise at the discretion of the Asamblea.<sup>161</sup> Article 80 mandates a referendum on the adoption of certain changes to the state constitution.<sup>162</sup> Lastly, Art. 110 provides for the conduct of referenda.<sup>163</sup> Second, the *Reglamentos* add an engagement element for mass participation (*consulta popular*) in the process of operationalization of PCC leadership policies. Article 4(b) invests the Asamblea with the discretion to seek popular consultation on its legislative projects.<sup>164</sup> Article 5(l) vests the President, vice president and secretary of the Asamblea the power to propose such consultation to the Asamblea.<sup>165</sup> Article 68(a) vests Asamblea commissions charged with legislative projects the power to recommend popular consultation with respect to their work,<sup>166</sup> or by the Asamblea itself.<sup>167</sup> (Article 72).

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<sup>160</sup> Órgano Oficial Del Comité, Reglamentos de la Asamblea Nacional del Poder Popular de la República de Cuba (Feb. 2, 2008), <http://www.granma.cu/granmad/2008/02/24/nacional/artic21.html>.

<sup>161</sup> See *id.* at art. 4(x).

<sup>162</sup> See *id.* at art. 80.

<sup>163</sup> See *id.* at art. 110.

<sup>164</sup> See *id.* at art. 4(b).

<sup>165</sup> See *id.* at art. 5(i).

<sup>166</sup> "[A]probar el proyecto con enmiendas o sin ellas, pudiendo además recomendar en que período de sesiones debe incluirse y si debe someterse a consulta popular." *Ibid.*

<sup>167</sup> *Id.*, art. 72.

The irony proceeds from the implications of the solution. First it reconstructed the mechanisms of the popular consultation from a revolutionary act of performance to a bureaucratized system for input and affirmation. We move from the mechanics of the Havana Declarations, to the performance of voting affirmation. But more importantly, we move *from the performance of the affirmation* of acts wholly undertaken by the proletariat's dictator-representatives (the form of the organs of the PCC and of the PCC's state apparatus in the form of the Asamblea Nacional) to a process of partial self-affirmation by interposing the possibility of consultation between the PCC's leadership memorialized by the state apparatus in the form of law or constitution, and popular action.

But in the end, popular participation by affirmation remains wholly subject to the discretion of the leadership elements of the political model. And public consultation beyond the Asamblea took on a wholly discretionary character. It is in the search for a resolution of these challenges, but only after 2008, that the Cuban PCC and state apparatus appears to be moving from Socialist Democracy 1.0 to Socialist Consultative Democracy 2.0, the success or failures of which are nicely evidenced in the constitutional reform process of 2016-2019.

What emerges as Cuban Socialist Democracy 2.0 can be seen in the practices developed after 2011 even in the absence of a unifying theory that incorporated these practices into the developing formal expression of the political-economic model of the PCC. Popular affirmation has been incorporated in three significant changes to the Cuban political and economic model since 2011. Consultations were held on the *Lineamientos de la Política Económica y Social del Partido y la Revolución*,<sup>168</sup> the *Conceptualización del Modelo Económico y Social Cubano de Desarrollo Socialista*, and the *Plan de Desarrollo Económico y Social hasta 2030*:

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<sup>168</sup> Partido Comunista de Cuba, *Lineamientos de la política económica y social del partido y la Revolución Para el Periodo 2016-2021* [Guidelines for the Political Economy and Social Policy of the Party and the Revolution for the Period 2016-2021] (Jul. 2017), available at <http://www.granma.cu/file/pdf/gaceta/Lineamientos%202016-2021%20Versi%C3%B3n%20Final.pdf>.

*Visión de la Nación, Ejes y Sectores Estratégicos*.<sup>169</sup> These consultations took place in 2001 and 2016. But the extent of affirmation varied – at their widest with the *Lineamientos* and at the narrowest with the much more overtly political *Conceptualización*. With the 2019 referendum on the Cuban constitution, popular affirmation reached its widest scope.

On April 2011, the 6th Congress released the *Lineamientos de la Política Económica y Social del Partido y la Revolución* (*Lineamientos*).<sup>170</sup> The document outlined Cuba's developmental strategy for the years 2016-2021. It contained measures meant to reform the model of economic management; macro-economic policy; external economic policy; investment; science, technology, innovation and environment; social policy; agriculture; industry and energy; tourism; transportation; construction and hydrological resources; trade. From a modified version of the *Lineamientos*, in July 2017<sup>171</sup> the 7th Congress of the CPC approved the *Conceptualización del Modelo Económico y Social Cubano de Desarrollo Socialista*, and the *Plan de Desarrollo Económico y Social hasta 2030: Visión de la Nación, Ejes y Sectores Estratégicos*.<sup>172</sup> The *Conceptualización* outlined the principles underpinning the Cuban economic model, and provided a blueprint for its gradual transformation. The *Plan 2030* was a tool to guide medium-term economic and social development in Cuba. These reform blueprints provided the very content of the 2019 constitutional revision.<sup>173</sup> Of the 224 articles in the Project Constitution, 175 are based on the principles and the policy priorities set by the *Conceptualización*, the

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<sup>169</sup> CONCEPTUALIZACIÓN DEL MODELO ECONÓMICO Y SOCIAL CUBANO DE DESARROLLO SOCIALISTA (Jul. 2017), available at <http://www.granma.cu/file/pdf/gaceta/Conceptualizaci%C3%B3n%20del%20modelo%20economico%20social%20Version%20Final.pdf>.

<sup>170</sup> See *supra* note 165.

<sup>171</sup> See Partido Comunista de Cuba, *Lineamientos de la Política Económica y Social del Partido y la Revolución Para el Período 2016-2017* (Jul. 2017), available at <http://www.granma.cu/file/pdf/gaceta/Lineamientos%202016-2021%20Versi%C3%B3n%20Final.pdf>. For an excellent account of the drafting process of these documents, see Ricardo Torres, *El Proceso de Actualización del Modelo Económico y Social de Cuba*, 45 PENSAMIENTO PROPIO 57 (2017).

<sup>172</sup> See PLAN NACIONAL DE DESARROLLO ECONÓMICO Y SOCIAL HASTA 2030: PROPUESTA DE VISIÓN DE LA NACIÓN, EJES Y SECTORES ESTRATÉGICOS (2011).

<sup>173</sup> See BACKER, *supra* note 3.

*Lineamientos* and *Plan 2030*. The amendment of 134 articles following the popular consultation of 2018 involved a more logical organization of many of the former provisions, and the rewording of some of the articles that provoked the most polarization among the public.

The *Lineamientos* were discussed in 2011, at assemblies organized by base-level party committees, labour organizations, and the Committees for the Defense of the Revolution. A total of 163,000 popular assemblies were held, involving 8.9 million persons. The consultation led to re-drafting 68 per cent of the *Lineamientos*, and to the addition of 20 reform measures not present in the first 291-paragraphs version.<sup>174</sup> The most debated measures were those related to the elimination of rationing cards, pricing policies, transportation, educational and health services and reform of the monetary system. The figures for those who abstained from popular assemblies, or else joined without bringing a meaningful contribution to the discussion are not known. In their absence, no hypothesis can be formulated on the deeper causes of citizens' lack of engagement.

A further round of consultation on a modified version of the *Lineamientos*, the *Conceptualización* and *Plan 2030* was held from 15 June to 20 September 2016.<sup>175</sup> Over 45,000 meetings were organized, which by official counts were attended by over 1.5 million people.<sup>176</sup> Virtually all of the meetings were organized by mass organizations tied to the PCC.<sup>177</sup> The proposals made in those assemblies were sorted, and selected proposals were organized by

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<sup>174</sup> See VI Congreso PCC (Congresos del PCC, Compendido Informativo Para Periodísticas, 2011). <http://congresopcc.cip.cu/congresos/vi-congreso-pcc>.

<sup>175</sup> *Comienza Consulta Popular Sobre el Modelo Cubano de Desarrollo*, IPSCUBA (June 16, 2016), <http://www.ipscuba.net/politica/comienza-consulta-popular-sobre-el-modelo-cubano-de-desarrollo>.

<sup>176</sup> Raúl Castro a Sesión Extraordinaria del Parlamento. *Son Analizados la Conceptualización del Modelo Económico y Social Cubano de Desarrollo Socialista y los Lineamientos de la Política del Partido y la Revolución*, VANGUARDIA (May 31, 2017), <http://www.vanguardia.cu/de-cuba/9153-raul-castro-a-sesion-extraordinaria-del-parlamento>.

<sup>177</sup> Oscar Sánchez Serra, *Ruta democrática y participativa*, ASAMBLEA NACIONAL DEL PODER POPULAR, REPÚBLICA DE CUBA (May 30, 2017), <http://www.parlamentocubano.gob.cu/index.php/ruta-democratica-y-participativa/>.

the *Centro de Estudios Sociopolíticos y de Opinión* and the Permanent Commission. Nothing is known, however, about the proposals that were not accepted, and of the reasons why those proposals were made.

The reform process launched by the 6th Congress and continued by the 7th Congress saw three distinct steps.<sup>178</sup> Each step of the reform process was marked by the holding of a popular consultation on the measures to be implemented. Each one of the reform packages proposed between 2011 and 2018 saw inputs by the masses prior to their adoption by the CPC and the ANPP. The process concluded with the Constitutional referendum of 2019. Excluding the constitutional referendum, a total of three popular consultations took place in the narrow space of eight years. This frequency, breadth and depth of popular engagement in re-making Cuba's mode of social and economic development is historically unprecedented. Apart from the specifics of social and economic reform, this entire process speaks to the revamping of Cuba's socialist democracy, and its reliance on an autonomous and sustainable version of the "mass line".

In releasing the Project Constitution to the public, the Cuban leadership placed quite specific borders on both engagement and on affirmation. These were grounded on a specific set of constitutional principles and reforms. These formed the broader institutional narrative that framed the presentation of the Project Constitution to the Cuban and global public. The main elements of this narrative can be extracted from the *Introduction to the Analysis*

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<sup>178</sup> For a longer history of this process, which began in the 1990s, see Jaime García Ruiz, *Reforma de los Noventa y Actualización del Socialismo en Cuba: Continuidad y Ruptura/Reforms in the 90's and Socialism Updating in Cuba: Steadiness and Breaking* 149 1 REVISTA ECONOMÍA Y DESARROLLO (IMPRESA) 35 (2018) (discussing elements of continuity and discontinuity); Marcos Antonio da Silva, *Cuba: Revolução e Reforma*, 10 THE INT'L J. OF CUBAN STUD. 119 (2018).

of the *Project of Constitutional Reform*,<sup>179</sup> and from the *Glossary*<sup>180</sup> explaining the contextual meaning of key concepts in the Constitution. They concern the twelve aspects of: the role of the Communist Party of Cuba in governance; the notion of socialist rule of law; property rights; guarantees to civil, political, social, cultural and economic rights; notions about equality; administrative remedies; citizenship; constitutional equilibria among state organs at the central level; reforms of the local state; the electoral system; national security and defense; the process of constitutional reform.<sup>181</sup> These then provided the guidance necessary for officials moderating the formal meetings at which consultation occurred,<sup>182</sup> as well as shaping the summaries prepared for and limiting the debates in the Asamblea Nacional.<sup>183</sup>

Three differences in content and format exist between the plebiscitarian meetings of the 1960s, and public consultations of the 2000s, and 2019 Constitutional referendum. *First* and foremost is the adoption of modes of consultation based on an informed popular discussion of governance reforms. The format adopted involves the publication of draft documents, and their distribution in both printed and electronic versions. The next step is the convening of meetings held at grass-roots levels – in schools,

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<sup>179</sup> *Introducción al Análisis del Proyecto de Constitución de la República Durante la Consulta Popular*, GRANMA (Aug. 21, 2018), <http://www.granma.cu/reforma-constitucional/2018-08-21/introduccion-al-analisis-del-proyecto-de-constitucion-de-la-republica-durante-la-consulta-popular-21-08-2018-18-08>.

<sup>180</sup> *Glosario*, in 31 PROYECTO DE CONSTITUCIÓN DE LA REPÚBLICA DE CUBA, <http://www.parlamentocubano.cu/wp-content/uploads/Tabloide-Constituci%C3%B3n.pdf>.

<sup>181</sup> *Id.*

<sup>182</sup> Popular meetings about the constitutions were moderated by two “[C]itizens of proven preparation and honesty” who also prepared the minutes, transcribing the main points and contents of popular discussion. The organization of popular meetings has been described by Yeilén Delgado Calvo, *¿Cómo se procesarán las propuestas derivadas de la consulta popular?*, GRANMA (Aug. 10, 2018), <http://www.granma.cu/reforma-constitucional/2018-08-10/como-se-procesaran-las-propuestas-derivadas-de-la-consulta-popular-10-08-2018-19-08-14?page=7>.

<sup>183</sup> Deputies at the ANPP received a summary of the process of popular consultation, rather than complete data. On this point, see Libia Miranda Camellón, Yurisander Guevara, Loraine Bosch Taquechel & Abel Rojas Barallobre, *Cobertura Especial: Presentan a los Diputados Resumen del Proceso de Consulta Popular del Proyecto de Constitución*, JUVENTUD REBELDE (Dec. 18, 2018), <http://www.juventudrebelde.cu/cuba/2018-12-18/cobertura-especial>.

hospitals, factories, neighborhoods. *Second*, is the appreciation of disagreement, understood as the existence of a variety of opinions on the specific content of reform blueprints. As stated by Raúl Castro, processes of consultation that are not unanimous are “precisely what we need if we really want to reach a democratic and a serious consultation”.<sup>184</sup> *Third*, is the renewed responsibility for the Communist Party of Cuba to posit itself as the vanguard of a more articulated, complex system of popular engagement. For Cuban socialist democracy, the conventional criticism of popular consultations grounded on the people’s lack of technical expertise in governance processes ought to matter little. The gathering and filtering of popular comments should involve “translating” valuable ideas expressed through ordinary language into the technical vocabularies of the respective domains of governance.

The constitution of Cuban Socialist Consultative Democracy 2.0 thus emerges from practice. It consists of a coordinated interaction between the state and party organs and the people under well managed circumstances. Proposals and policies originate with the PPC, the guiding political vanguard in power. It is then considered and modified by state and popular representatives. Only then is it circulated for mass consideration. But it is circulated; and responses, however well curated, are transmitted to the authorities. There is evidence that at least within a narrow band, such popular engagements helped produce modification.<sup>185</sup> The entire process is overseen by the PCC and administered through its state apparatus and the mass

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<sup>184</sup> This idea was expressed with reference to the popular consultation held on the Lineamientos, but it can be considered representative of the rhetorical approach of the Cuban leadership to processes of popular consultation in general. The complete statement was, “Quiero con esto exponer que, aunque como tendencia existió en general comprensión y apoyo al contenido de los lineamientos, no hubo unanimidad ni mucho menos y eso era precisamente lo que necesitábamos, si de verdad pretendíamos una consulta democrática y seria con el pueblo.” See *Informe Central al VI Congreso del Partido Comunista de Cuba (I)*, CUBADEBATE (Apr. 17 2011), <http://www.cubadebate.cu/congreso-del-partido-comunista-de-cuba/informe-central-al-vi-congreso-del-partido-comunista-de-cuba-i/>.

<sup>185</sup> Oscar Figueredo Reinaldo, José Raúl Concepción, Dianet Doimeadios Guerrero, Edilberto Carmona Tamayo & Irene Pérez, *¿Cuáles son los principales cambios en el Proyecto de Constitución? (+ Infografía)*, CUBADEBATE (Dec. 21, 2018), <http://www.cubadebate.cu/especiales/2018/12/21/cuales-son-los-principales-cambios-en-el-proyecto-de-constitucion/#.XVsTkFB7nXQ>.



organizations constituted by the state and the PCC. Once this process of popular consultation is finished, the document, policy or action is finalized by the popular assembly under the guidance and direction of the PCC. Only then is the action set for popular affirmation. That combination of an ordered sequence of popular consultation followed by popular affirmation is the essence of Cuban Socialist Consultative Democracy 2.0. In form and appearance it has developed substantially from its first steps in the early period 1960-1976. But conceptual problems and challenges remain; and it remains a practice without a theory. Some of the more fundamental of these issues are discussed in the sections that follow.

*B. The Contradictions of Voting in Cuban Marxist-Leninism;  
Situating Popular Assent within an Ideological Cage.*

The question worth considering then, is what exactly is the ideology of voting and of representation at the base of the construction of the Party and state apparatus after 1975? (Assuming of course that much has happened since its “big bang” with the 1<sup>st</sup> PCC Congress)? What is also worth considering are the related questions: to what extent does this ideology augment the difficulty of cross systemic discussion, and then the extent to which it is worth considering whether the current constitutional project lives up to its ideological principles in fact? Left for another time is the harder question: might this ideological system posit a view of democracy that might itself be legitimately viable in relevant context.

The development of a Cuban Leninist ideology of voting had one constant—the leading role of the core revolutionary group that ousted the pre-1959 government. The manner in which that leadership role was to be asserted, and how it was to be eventually institutionalized, proved to be a more uncertain task than might have been expected. And of course, much of it was undertaken not from a positive but from a reactive framework; to some extent what was fashioned was as much a product of U.S. initiatives as it was of

Cuban reaction.<sup>186</sup> Sadly, though, that dynamic has set the pattern of ideological and institutional development in Cuba that continues to structure state, government and ideology. Irrespective, by the middle of the 1970's the ideological and institutional course had been set by what had been a more free-form revolutionary government—it was to embrace some version of orthodox (for its time and then set in stone) European Marxist-Leninist structure founded on what would become a more well-defined Caribbean variation of Marxist ideology.

That leadership role, however, was from the first meant to be attached to popular participation in some form. What emerged early on, from 1960, was that this popular participation was to have little relation to the forms or ideologies of liberal democratic states. Yet, the revolutionary group's early experiments (or uncharitably its publicity stunts) have also distinguished its approach to popular participation from those of other Marxist-Leninist states. Indeed, and ironically enough, there appeared to be more concern about the operation of what in China would be called the “mass line” (the principle of “from the people to the people”)<sup>187</sup> in the early period of the Cuban revolutionary government than there was in more orthodox Marxist-Leninist states.<sup>188</sup> The notion here from the first

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<sup>186</sup> The Cuban political line has been built through a series of reactions to the United States, and to the perceived external environment. The most important dimensions of this process have been analyzed by MARIA DE LOS ANGELES TORRES, *IN THE LAND OF MIRRORS: CUBAN EXILE POLITICS IN THE UNITED STATES* (2001), discussing the aspect of national security; Myres S. McDougal, *The Soviet-Cuban Quarantine and Self-Defense*, 57 AM. J. INT'L L. 597 (1963), examining the impact of Cold War dynamics on the making of the Cuban regime, and finally PHILIP W. BONSAL, *CUBA, CASTRO, AND THE UNITED STATES* (1971) for an exclusive focus on the relation between the United States and Cuba.

<sup>187</sup> See the classical studies by ALAN P. LIU, *MASS CAMPAIGNS IN THE PEOPLES REPUBLIC OF CHINA* (1981) (for an illustration of the mass line principle and its implementation); see also Arthur H. Steiner, *Current “Mass Line” Tactics in Communist China*, 45 AM. POL. SCIENCE REV. 422 (1951).

<sup>188</sup> Within the Soviet Bloc, the monopoly on ideological orthodoxy was detained by the Soviet Union. By the time Cuba was performing experiments in direct democracy, de-stalinization had already occurred in the Soviet Union, and events involving mass mobilization no longer took place. Likewise in China, the Cultural Revolution was coming to an end. See DONALD A. FILTZER, *THE KHRUSHCHEV ERA: DE-STALINIZATION AND THE LIMITS OF REFORM IN THE USSR 1953-64* (1993) (on the Soviet Union); see also POLLY JONES, *THE DILEMMAS OF DE-STALINIZATION* (2006) (for a more recent analysis). For a general study of the cultural revolution, see RODERICK MACFARQUHAR, *THE ORIGINS OF THE CULTURAL REVOLUTION* (VOL. 1-3) (1974).

appeared to be to embed popular participation *within* the structures of the leadership of the revolutionary government, and thereafter within those of the Communist Party-State. But until that leadership structure (and its institutions) was established and settled, it would be impossible to expect much stability to the corresponding notions (or practices) of popular participation. That settlement came with the 1<sup>st</sup> Communist Party Congress and the 1976 Cuban Constitution and its establishment both of the institution of the revolutionary government within the Cuban Communist Party and the institutionalization of popular participation within the structures of the National Assembly of Popular Power. The organization of popular participation within the structures of the National Assembly of Popular Power, the Cuban Democratic Socialist Model 1.0 described above, however, tell us little about the ideological character of popular participation. Moreover, it appears to add a layer of confusion respecting the forms through which popular participation is manifested. So, let us try to start at the ideological beginning.

From the time the revolutionary group rolled into Havana in the early days of 1959, it was confronted with a core ideological problem—how to remain revolutionary and how to be democratic. To do both required a considerably long journey away from the structures of liberal democracy that were even then taking definitive shape (though they had not yet by any means taken that definitive orthodox shape then). But it was not clear that the road would necessarily lead inevitably to an identity with what was passing for the ideological structures of European Marxist-Leninism (already weakened in fact (e.g., Hungary 1956),<sup>189</sup> despite (or because of) a long and intense effort at a theoretical elaboration of a system that was meant to be profoundly liberal and democratic (and which in fact was neither).<sup>190</sup> On the other hand, Marxist-Leninism provided the revolutionary government with the one key ingredient it needed if it were to try to perpetuate its rule without appearing (theoretically) to descend into the common mud pit that

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<sup>189</sup> See GYÖRGY LITVÁN, JÁNOS M. BAK, AND LYMAN HOWARD LEGTERS, EDS. *THE HUNGARIAN REVOLUTION OF 1956: REFORM, REVOLT AND REPRESSION, 1953-1963* (1996) (on the Hungarian Revolution).

<sup>190</sup> See generally KARL POPPER, *THE LESSON OF THIS CENTURY: WITH TWO TALKS ON FREEDOM AND THE DEMOCRATIC STATE* (2013) (For all the philosophical and logical reasons outlined within).

was Latin American dictatorships).<sup>191</sup> To that end an ideology was necessary, and the appearance of an avoidance of a cult of personality (the caudillo effect so well known within the ancient boundaries of the old Spanish *Imperium*). And it needed some connection with democratic institutions as well, both because the revolutionary party rode to power in part on that promise, and because that too might present an avenue for longevity.

The first efforts at the assertion (tightly controlled of course) of direct democratic authority produced a number of insights. The first was that the practice of direct democracy tended to serve as an important method for the management of the direct connection between the revolutionary government and the people. The second was that the physical performance of direct democracy was not then possible, except for extraordinary events. We leave for another day whether technology has now made possible in cyber spaces what the revolutionary government attempted to do in physical space. The third was the development of a distinct view of the meaning and practice of voting. The fourth was that alternatives were necessary to develop at least theoretical connections between the revolutionary government and the people. To that end, the rudimentary modalities of supervision could also be used as a means of acquiring information about popular sentiment with respect to revolutionary government initiatives. The fifth was that a mechanism was necessary to establish two sets of institutions – the institutionalization of the revolutionary government and the institutionalization of popular participation – which required a further refinement of the meaning and practice of voting. The sixth was a need to preserve direct popular participation in extraordinary cases (following the model of the Havana Declarations). Lastly, the seventh was to be able to distinguish both voting and participation from its counterparts in liberal democratic states. To fail to make that distinction was to open the Cuban state apparatus (and rightly) to the criticism that it was merely creating showcase institutions and events with no real meaning to cover up

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<sup>191</sup> See, e.g., GRETCHEN HELMKE AND STEVEN LEVITSKY Eds. *INFORMAL INSTITUTIONS AND DEMOCRACY: LESSONS FROM LATIN AMERICA* (2006) (on Latin American caudillismo).

the structures of dictatorship (criticisms that echo strongly in the Aparicio Otero opinion essay).<sup>192</sup>

Reduced to its essence, however, these insights turned, in their ideological manifestations on two principal elements – voting and participation of the people. At first glance one might be tempted to say voting is voting. There can be little ideologically to quibble about voting except its object. And in that respect both Caribbean Marxism and liberal democracy agree. Where liberal democracy sees contests among factions (political parties, for example, but also interest groups and the like), Caribbean Marxist Leninism sees the use of voting to mask a dictatorship built along class lines.<sup>193</sup> Caribbean Marxist-Leninists, then, view voting as the means by which the class dominance of (in their view) capitalist elites can be maintained by providing the appearance of choice and political clashes over policy while masking that those clashes actually ensured that the same ruling class continued in power (whatever the voter's choices among policy options).<sup>194</sup> That provided no choice but reinforced the class corruption at the heart of which was the voting system that served as the foundation of liberal democratic practice itself. Thus, to vote for any particular candidate was to vote for a different mask behind which the same class ruled. If that was the case, then both the issue of representation and the issue of voting presented substantial obstacles to popular participation. For them, the way around the problem involved three distinct elements.

*The first was voting as an act of affirmation or rejection.* Voting was to tie the regulation of voting to the guidance of a revolutionary party committed (and in theory at least obliged to ensure) that all actions be drawn to further the fundamental goals of the society. If that was the case, then voting moved from democratic to corporate principles – and the revolutionary government (and later the PCC) transformed itself from a revolutionary system of soviets to a board

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<sup>192</sup> Jaime Aparicio Otero, *Apariencias Cubanas: La Constitución que se Vota Hoy en la Isla es Una Obra de Ingeniería Política para Seguir Controlando el Poder*, EL PAÍS (Feb. 24, 2019), [https://elpais.com/elpais/2019/02/22/opinion/1550860771\\_801464.html](https://elpais.com/elpais/2019/02/22/opinion/1550860771_801464.html) (last visited Aug. 6, 2019).

<sup>193</sup> *Supra* note 51.

<sup>194</sup> Castro Ruz, *supra* note 39.

of directors required to obtain shareholder approval of actions they initiated. The revolutionary party itself however would be self-regulated, internally responsible only to itself. It would follow that direct popular participation through voting would be *limited to the purpose of affirming* and rejecting the actions put to them for a vote. In the context of the constitutional plebiscite, the idea would be that the proposed constitution could be affirmed or rejected by the voters and if rejected that would signal that the leadership of the PCC as well as of the people's representatives in the Asamblea del Poder Popular had also failed in their leadership. In theory that also ought to produce a crisis of leadership requiring purges of the leadership group who failed in their responsibilities. At the margins, limited affirmation should also send strong signals that the PCC would be obliged to recognize and to which it ought to respond. But these theoretical possibilities, inherent in emerging Leninist theories of collective engagement remain largely unexplored in Cuban theory.<sup>195</sup>

*The second was the voting for the representatives of popular power in local and national assemblies.* Here voting posed the greatest challenge for the Cuban revolutionary government—how to distinguish popular voting for representatives to a legislative national and local assembly for the elections at the heart of liberal democratic states. Here, again, the idea was to move from the liberal democratic baseline of voting for one of several competing candidates, each competing on the basis of personal agendas and qualifications, to one of affirming the selection by the ruling leadership of a slate of candidates. Here again, the act of voting is detached from the act of choosing to the act of affirming a set of choices made under the guidance of the ruling party. The idea is that such candidates could be affirmed (elected) and removed by the people as they liked, but that those choices would be made

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<sup>195</sup> At its limit, of course, the issue intersects with the more commonly studied question of participation and dissidence in socialist states. That does not quite get to the problem of the obligation of the vanguard in the face of invited popular expression, though it suggests its contours. See, e.g., Christian Joppke, *Revisionism, Dissidence, Nationalism: Opposition in Leninist Regimes*, 45 *THE BRITISH J. OF SOCIOLOGY* 543-561 (1994). On Cuba in the last stages of the period of Fidel Castro's leadership, see, e.g., RAFAEL HERNANDEZ, *MIA A CUBA: ENSAYOS SOBRE CULTURA Y SOCIEDAD CIVIL* [LOOKING AT CUBA: ESSAYS ON CULTURE AND CIVIL SOCIETY] (Editorial Letras 1999); reviewed in English Jorge I. Domínguez, *An Increasingly Civil Cuba*, 120 *Foreign Policy Issue* 101-102 (Washington Sept./Oct. 2000).

under the shadow of the overarching obligation by voters and the PCC to select and retain only those representatives committed to the economic and political model and the long-term objectives toward which the state was obliged to move. This makes perfect sense within a Marxist-Leninist framework, where the fundamental commitment is to move the state and society toward the goal of establishing (or in the case of Cuba of preserving specified elements) of a communist society. The only way around that was not through elections (this is the case in liberal democracies as well) but through a revolutionary act that overcomes the basic economic and political model.

*The third was the shifting of the focus of democratic accountability from voting to participation* (within the strict boundaries of the political and economic model). Voting as affirmation becomes more palatable (perhaps) when what is to be affirmed is the product of a substantial amount of popular consultation. It is this thinking that makes plausible this quote: "Cuban Foreign Minister Bruno Rodriguez also exercised his right, announcing on Twitter that he voted for the continuity of the Cuban Revolution. "I defended a Constitution that is the result of a collective project with a 'Yes,' which reaffirms the will of the majority, and which protects the future of my family and of the heroic people ratifying the independence and sovereignty of socialist Cuba."<sup>196</sup> Of course that is true only to the extent that the consultation is deep enough, and effective enough to warrant public trust. And it will evidence its tolerance of popular voices by the extent to which it encourages or acknowledges opinions and suggests inimical to the proffered guidance. But the theory at least suggests that a comprehensive enough process for effective consultation that produces changes invokes a democratic accountability that reduces the centrality of voting to the construction of democratic mechanisms.<sup>197</sup> Of course, the chasm between theory and practice may be broad. But if there is a theory that justifies, then the issue changes complexion, at least in terms of any legitimacy argument.

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<sup>196</sup> *Cuba Celebra los 55 Años de la II Declaración de La Habana*, TELESUR (2017), <https://www.telesurtv.net/news/Cuba-celebra-los-55-anos-de-la-II-declaracion-de-La-Habana-20170202-0032.html> (last visited Aug. 6, 2019).

<sup>197</sup> Larry Catá Backer & Miaoquiang Dai, *Socialist Constitutional Democracy in the Age of Accountability* (Oct. 2018) (unpublished manuscript) (on file with the author).

These three theoretical approaches to voting, then, permit a more rigorous consideration of Cuban practice on its own terms. Clearly, the core understanding of the role and practice of voting within the Cuban political model raises significant issues. But it also suggests that the usual criticism grounded in the deviation between Cuban practice and the ideal model of liberal democracy also reduces itself to be a farce. Everyone can agree that Cuba's system does not conform to the theory or practice of liberal democracy. But the Cubans would tell you this themselves. If that is all one was looking for then there is no point in investing any more time in the matter, and one moves back to the issue of "transition."<sup>198</sup> But if instead we move to the question of the theoretical possibility of democratic structures in systems grounded in popular affirmation and consultation, then the issues become far more interesting.

More interesting still are the host of issues around the question: whether the current constitutional project lives up to its ideological principles in fact. Within the constitutional project itself the principal questions ought to go to the extent and value of the popular consultations, both at the time of the reconceptualization of the economic and political model before the 7th PCC Congress and thereafter in the context of constitutional reform. Also important is the extent to which those consultations are transparent—for example circulating the public and formal consultations presented to the National Assembly—it is too late in the day to claim that this is not possible given the sophistication of the state's web presence. Lastly, the balloting for the affirmation and the consequences to those who voted "no" would be of interest. Related to this is the issue of the state with respect to a failure to capture a large affirmation.<sup>199</sup> How much affirmation is enough to provoke a review and reform of the proffered text? Yet these are questions that become possible to consider only once considers the

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<sup>198</sup> Jon Mills & Daniel Ryan Koslosky, *Whither Communism: A Comparative Perspective on Constitutionalism in a Postsocialist Cuba*, 40 THE GEO. WASH. INT'L L. REV. 1219, 1229 (2009).

<sup>199</sup> Marc Frank & Nelson Acosta, *Cubans Expected to Voice Unprecedented Opposition in Constitutional Vote*, REUTERS (Feb. 21, 2019, 11:12 AM), <https://www.reuters.com/article/us-cuba-constitution/cubans-expected-to-voice-unprecedented-opposition-in-constitutional-vote-idUSKCN1QA275?il=0> (last visited Aug. 6, 2019).



possibility that there is an ideological possibility for the construction of democratic models are do not conform to the principles of liberal democratic states as these have been refined since 1945.

The problem of voting, then, touches on a core theoretical issue in Marxist-Leninist systems. In the absence of a clearly developed Socialist theory of voting, it is difficult to avoid a drifting back to the basic principle of liberal democratic orders—that in voting majorities take all and move on. But if voting is to take a Socialist character, and if affirmation is directed to the vanguard, then the relationship of voting to the obligations the voting raises has to be recast. Voting ought to be better aligned with the fundamental issue of the responsibilities of a Leninist vanguard. That it has not suggests a deep challenge for the development of Cuban Socialist Democracy 2.0. That is captured nicely by the challenge for the vanguard of confronting negative votes or abstentions.

### *C. The Caveats.*

The constitution of a form of Socialist Consultative Democracy out of the practices of popular consultation and popular affirmation raise a number of questions that are still searching for answers. Beyond the fundamental problem of voting, discussed above, are first, the problem of engagement; and the second is the problem of the representation of popular power. Each is briefly considered in turn.

The problem of engagement is at the core of both liberal democratic and socialist systems. Engagement can ring as hollow in both—especially in the face of the management of the process of engagement by those leadership collectives in control.<sup>200</sup> And, of course, the issues regulatory capture and of barriers to participation are well known in the West—which explains the great efforts to conflate democracy and elections and soft pedal the value of engagement in liberal democratic governance. But for Socialist systems the problems can be identified with more precision. First,

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<sup>200</sup> These systems of hollow engagement are reproduced all the way down the economic and social order of liberal democracies. *See, e.g.,* Backer, *supra* note 123.

the role of the PCC and its management of popular consultation raises substantial issues. The first is that PCC and state managed consultation may produce the results desired. In other words that such management may produce responses that the vanguard wants to hear rather than those that the vanguard ought to hear; a problem that mirrors that of liberal democracies.<sup>201</sup>

The second is a problem of technology.<sup>202</sup> The way in which engagement is undertaken in Cuba bespeaks the 19<sup>th</sup> rather than the 21<sup>st</sup> centuries. The continued reliance on mass organizations, and on the Committees for the Defense of the Revolution suggest a reliance on physical presence. That reliance makes little sense in technologically developing states, at least in part in the case of Cuba. Moreover, the use of particular mechanisms, especially mass organizations and the like ensure that there will be a certain chilling effect – similar to that where an employee is asked to be frank about the shortcomings of the person who can terminate their employment. Tech and consultation remain in a very early stage of development, and appeared only in the context of state observed but less directly managed informal consultations.<sup>203</sup> Moreover, the issues of the Cuban diaspora, and of foreign influences, now at the forefront of much discussion globally, is hardly on the Cuban radar. That, in turn, suggests the difficulties of filtering engagement. Beyond the diaspora, the role of those officials charged with the collection, summaries and delivery of selected interventions poses a substantial challenge for decision makers. Filtering without supervision can substantially distort the process. While that may produce pleasant results, it will likely also reduce the legitimacy of the process and therefore its value to the elite.

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<sup>201</sup> Problems in surveys of popular opinion and, more generally speaking, other modes of consultation have been widely analyzed for over four decades by political scientists in liberal democracies. See Paul Perry, *Certain Problems in Election Survey Methodology*, 43 *PUBLIC OPINION QUARTERLY* 312 (1979). For an analysis of more recent issues, see Jean-Rémi. Lapaire, *Why Content Matters. Zuckerberg, Vox Media and the Cambridge Analytica Data Leak*, 10 *ANTARES: LETRAS E HUMANIDADES* 88 (2018).

<sup>202</sup> On the relationship between technology and democracy generally, see DANIEL LEE KLEINMAN, ED. *SCIENCE, TECHNOLOGY, AND DEMOCRACY* (2000).

<sup>203</sup> Larry Catá, Backer, Flora Sapio & James Korman, *The Democratic Constitution of Illiberal States – An Empirical Approach to Theorizing Popular Participation, Representation and Constitutional Reform in Cuba*, 34 *EMORY INT'L L. REV.* (forthcoming 2019).

The problem of the representation of popular power has yet to confront the challenges that were built into the system when it was established after the 1<sup>st</sup> PCC Congress in 1976. The Asambleas now appear to be a dual-purpose entity. To some extent, it serves to implement (and give a stamp of popular interaction) with the acts of the state and Party apparatus. At the same time, it has been used largely as a site for capturing popular affirmation in all but the most important projects. If, in fact, the Asamblea is both the site for consultation and affirmation, its effects and relation to popular consultation and affirmation remains to be resolved. But there is no theory here that may help. As in so many other aspects of political practice in Cuba – there is much practice in search of a theory, and much decision making in search of a cage of principles that might organize, legitimate and constrain the exercise of discretion in accordance with the political and economic model.

The role of the Asamblea is also complicated by issues of vertical and horizontal coherence. First, it is not clear how authority will be divided between the national, provincial and local bodies.<sup>204</sup> Second, the role of nomenklatura and Asamblea in the context of affirmation and consultation remains unclear, all the more so without an approved theoretical foundation.<sup>205</sup> The issue of representation as between the State, the Asamblea and the PCC itself also remains both unresolved and dynamic.<sup>206</sup> Lastly, there is a substantial gulf between the role of non PCC members and the Party which is evidenced in very different ways even among

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<sup>204</sup> *Constitución de La República de Cuba*, <http://www.granma.cu/file/pdf/gaceta/Nueva%20Constituci%C3%B3n%20240%20KB-1.pdf>; Marc Frank, *Explainer: What is old and new in Cuba's proposed constitution* (February 21, 2019), <https://www.reuters.com/article/us-cuba-constitution-explainer/explainer-what-is-old-and-new-in-cubas-proposed-constitution-idUSKCN1QA273>.

<sup>205</sup> John N. Hazard, *The Common Core of Marxian Socialist Constitutions*, 19 SAN DIEGO L. REV. 297, 305 (1981) (discussing the theoretical foundation of socialist constitutions is set in their preamble. All constitutions of the countries belonging to the former Soviet Bloc follow the constitutional model of the now defunct Soviet Union. Cuba is not an exception and yet, the Preamble of the 2019 Constitution makes no mention of the ANPP or of the nomenklatura system).

<sup>206</sup> *Id.* Generally speaking, the reform process that started in Raúl Castro's era focused on the economic aspects of governance, neglecting the development of Caribbean Marxist-Leninist theory.

Marxist Leninist states. Cuba does not have a United Front apparatus which is a central element of Chinese governance.<sup>207</sup> But China has less interest in Cuba's move toward popular consultation-affirmation mechanisms and the connection to mass organizations with that process.<sup>208</sup> China's United Front incorporates popular expression in a different way. The variation in approach is worth further study.

### CONCLUSION

The project of Cuban constitutional reform is not merely about alignments of normative values and policies between the government and the vanguard PCC. The revised constitution, and the three critical documents that have reframed the normative structures of the Cuban political-economic system—*Lineamientos*, *Conceptualización*, and *PNDES*—on which it is based, have also pointed to the substantial development of Cuban practices of popular engagement. That is, the three have had a substantial effect on the practice of governance as much as they have had an effect on the normative content of government.

Popular participation and representation are the great antipodes of contemporary democratic theory.<sup>209</sup> The former embodies the principle that political power resides in the individual; the latter that in the exercise of political authority such power must be delegated and exercised in a fiduciary capacity for the community of individuals. Yet representative delegation dilutes popular authority and requires regimes of accountability beyond elections; but popular control produces majoritarian

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<sup>207</sup> A. DOAK BARNETT, *CADRES, BUREAUCRACY, AND POLITICAL POWER IN COMMUNIST CHINA*, 198 (1967); ANNE-MARIE BRADY, *MARKETING DICTATORSHIP: PROPAGANDA AND THOUGHT WORK IN CONTEMPORARY CHINA*, 25 (Mark Selden eds., (2008).

<sup>208</sup> A survey of research article on Cuban politics published in the People's Republic of China from 1980 to 2018 revealed that no studies on the referendum in Cuba have been published. Data were surveyed on the China National Knowledge Infrastructure Database (CNKI) [oversea.cnki.net](http://oversea.cnki.net).

<sup>209</sup> See STEPHEN TIERNEY, *CONSTITUTIONAL REFERENDUMS: THE THEORY AND PRACTICE OF REPUBLICAN DELIBERATION* (2012) (discussing contemporary democratic theory).

tyranny if unconstrained. In the construction of mediating institutions—governments and vanguard institutions mostly—political communities have drawn on a variety of theories that have sought to reconcile these core principles in the construction of government that is accepted as legitimate and thus whose authority over the polity may be asserted even without individual consent.<sup>210</sup> Liberal democracies have moved from the concept of the embodiment of political self-constitution as incarnated in the body of a person (the Greek *monos arkhein*) to its incarnation within the body (*res*) of the people (*publicus*). But that incarnation, as well, has been situated within vanguard organizations—*aristos kratia*—the characteristics of which have undergone tremendous ideological transformation since the time of the Roman Republic<sup>211</sup>—with its most powerful current expressions as liberal republican, Marxist Leninist vanguardist, transnational multilateralist organization.

Global concern over the shape and direction of democratic theory and its expression in states have intensified.<sup>212</sup> Liberal democratic states, once comfortably secure in the expression of an orthodox view of what democracy meant and how it was expressed, have had those beliefs challenged by internal actions that appear to challenge the core premises of democratic states—populism (left and right), foreign interventions, and the increasing willingness of political actors to test the frontiers of structures and institutions of government have all appeared to pose significant threats to the integrity of democratic theory and practice. This has caused anxiety throughout the democratic world—and certainly among the intelligentsia in their self-assumed role as guardians of theory and monitors of the legitimacy of practice. In its most spectacular forms, this has produced great contests over the legitimacy of democratic practice—mostly in smaller and more fragile states. While Venezuela ended 2018 and started 2019 as the most extreme expression of that anxiety in action, many, in virtually every other state have become concerned about the state of democratic theory and practice. In these cases, foreign

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<sup>210</sup> *Id.*

<sup>211</sup> John North, *Politics and Aristocracy in the Roman Republic*, 85 4 CLASSICAL PHILOLOGY 277, 277-87 (1990).

<sup>212</sup> See generally Nikolaj Nielsen, *Brexit Vote Manipulated, Says Data Whistleblower*, EU OBSERVER (Mar. 25, 2018), <https://euobserver.com/justice/141470> (examining concerns over how the democratic “Brexit” vote was carried out).

interventions and internal instability appear to remind us all of the dangers of failing to meet the challenges to the stabilizing and legitimating core of theory and practice.

Despite the sometimes-expressed conceit of contemporary liberal democratic states that they represent the vanguard and defenders of orthodox (and therefore legitimate) democratic theory and its expression, the last several years has seen a more vigorous and self-conscious development of democratic theory and its expression in so-called illiberal states, and primarily among certain states organized around principles of Marxism and Leninism. This expression of the democratic turn is managed endogenously, through a mechanics of managed consultation. It is also expressed exogenously, though a system of carefully controlled referendums. Both are, in turn available only as an exercise of discretion by the PCC. That discretion may be exercised in accordance with principles that have yet to be clearly developed. For both elements of its Socialist Consultative Democratic model, Cuba was able to draw on its historical practices to weave together the two elements of consultation and affirmation. Ironically this suggests a quite conservative Leninism in the sense of its fidelity to Cuban practices and political traditions forged between 1959 and 1976. Yet this remains Leninism without a theory; and it is a conservatism that tends to be pragmatic and thus unstable and unpredictable.<sup>213</sup>

As a matter of theoretical possibility, though, the development of Socialist Consultative Democracy 2.0 within Caribbean Marxism nicely illustrated in the multi-year efforts of the Cuban state to both retain its Leninist fundamental organization while developing that Leninism to provide a more open space for direct intervention of the collective in the management of the state by its Communist Party core. In search of an as yet unstable implementation. Cuba's leadership "core" has embarked on a multiyear project that started with the reform at the Party level of the political and economic model of state organization, the redrawing of the economic plan for the nation, and in the embedding of these core principles into the operative documents of the administrative organization of the state—culminating in the drafting of a new state constitution. In that context the Party has also sought to develop mechanisms for

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<sup>213</sup> See, e.g., BACKER, *supra* note 3.

popular participation in both the Communist Party's political work, and in development of mechanisms of popular approval. This suggests both the possibilities and limits of democratic expression within Cuban Leninism, and its fundamental incompatibility with liberal democratic principles of democratic participation.