

“Drafting the new Constitution”

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The possibility and privilege of having played a role in the drafting of the new Constitution has been “the toughest challenge,” stated the Doctor in Laws Majela Ferrari Yaunner. She also commented some elements that make it better than the previous Constitution adopted in 1976.

Professor at the Law School of the University of Havana and member of the Advisory Group of the Drafting Commission, Mrs. Ferrari highlighted that this has been, no doubt, the most important process in her professional career since she graduated in 2002.

“It has been very intense, a lot of efforts. You feel you need to defend what is scientifically and technically right but within a political framework and it requires a commitment and a lot of care to find a balance in diverse issues.”

Why a new Constitution?

Constitutions need oxygen. Hence, in order to strengthen and improve the institutional system on regular basis, there is a need to count on Laws tempered to real life.

The directives were already set in the Guidelines of the Economic and Social Policy of the Party and the Revolution, with the Conceptualization of the Economic Model, and there were a series of realities that were equally setting the course to follow.

In this path to transform reality and build the nation we want, within the new domestic and international scenario with new challenges, it would have been a mistake to operate outside the

Constitution.

Then, we are urged to article and harmonize this Constitution formally, which is already written, with the needs and demands derived from the daily life of the Cuban society. Laws must be a tool to advance, a platform with which Cubans reach that prosperous, sustainable future we all want.

Speaking about the popular consultation, what’s the importance, in your opinion, of this process?

It was massive. Personally, it was interesting to participate in every stage as citizens’ wisdom suggested a great deal of new aspects. I am very pleased when people talk to me about the new text; a professor told me today with astonishment: “my three proposals were changed.”

The criteria of the Law School’s professors and the scientific societies of the Jurists Union were taken into account with a singular approach, having into account the issues of Laws, which were enriched with the popular contribution.

Making everyone think about the Constitution was paramount as it made people look into its content to improve it. I believe it became a document for all, as 60% of the items were changed for good. This document will leave its imprint for the future in a positive way and Cubans will embrace it and require its compliance. I am pretty sure of it.

You have said this Constitution is better. Why?

The purpose is to build a more democratic society, with more rights. Socialism must be built on this basis; an inclusive social system with all, for the good of all.

The new Constitution is better in so many aspects. For instance, the order of content is more didactic; rights have no hierarchy, all are on the same level and the family has its own space, with lots of challenges, different from previous times.

The effective legal protection is considered deliberately as well as the assumption of the due process with greater protective nature in the judicial area. These laws were highly demanded and discussed. Besides, it was better drafted after the consultation.

The Statement of Cuba as a Constitutional State is essential. The 1976 Constitution does not include this. It is a liberal conceptual structure in its origins, but it also has its foundations on the direction of the society and the State guided by the principles of legality, legal certainty, and constitutional supremacy; as well as guaranteeing the rights of citizens with effective mechanisms so laws can play an important role in organizing the life of society.

If we add that we are referring to a Socialist Rule-of-law State, in my opinion, we should add to the aforementioned principles, the values of dignity, equity and justice as the articles of the relationship among individuals and the State. Clearly, they would be implemented under our own terms and may experience constant changes, adhered to the context of Socialism faithful to the commitment of being a system pursuing the concepts of equity and justice.

In its Preamble, the contributions were significant. Several opinions were given and it identified that people were well aware of the history of our nation.

In fact, there are a series of elements that lead us to believe that this Constitution will be

structurally better while recreating today’s Cuba.

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