

The debates within the Constituent Assembly of Cadiz in 1812: the colonial subject – matter for Cuba*

Los debates en el seno de las Cortes Constituyentes de Cádiz en 1812: el tema colonial para Cuba

Os debates dentro das Cortes Constituintes de Cádiz em 1812: o tema colonial para Cuba

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Abstract

This paper focuses on an analysis of the Spanish Constitution of 1812, especially the debates that occurred in the Constituent Assembly regarding the colonial problem. First, Cuban society status is characterized from a political, economic and cultural point of view. Second, significance of the Constitution in Cuba is assessed, taking into account some of the proposals made by representatives that are reflected in the articles of the Constitution. That's why it is important to consider its first period of implementation and highlight the issue of slavery and its implications in order to identify possible changes related to colonial administration; however it is emphasized that there was no significant change in those aspects, although it produced a critical impact in the political and ideological aspects.

Key words: Constitution, Cuba, Colonial problem.

Resumen

El centro de la pesquisa está dirigido a la Constitución española de 1812, en especial a los debates que se produjeron en las Cortes Constituyentes respecto al problema colonial. Primeramente se caracteriza la situación de la sociedad cubana desde el punto de vista político, económico y cultural. En un segundo momento se realiza una valoración de la trascendencia de la Constitución en Cuba, teniendo en cuenta algunas de las propuestas realizadas por los diputados que se plasmaron en los artículos. El análisis está dirigido a su primer período de aplicación, se destacan sus implicaciones respecto al problema de la esclavitud y a posibles cambios referidos a la administración colonial, no obstante se resalta que no produjo ningún cambio significativo en estos aspectos, aunque sí fue fundamental su impacto en el aspecto político e ideológico.

Palabras clave: Constitución, Cuba, Problema colonial.

Resumo

O centro de pesquisa se dirige à Constituição Espanhola de 1812, especialmente aos debates que ocorreram nas Cortes Constituintes sobre o problema colonial. Em primeiro lugar a situação da sociedade cubana é caracterizada do ponto-de-vista político, econômico e cultural. Em um segundo momento, se efetua uma valorização do significado da Constituição em Cuba tendo em conta algumas das propostas feitas pelos deputados que se refletiram nos artigos. A análise destina-se a seu primeiro período de aplicação, destaca suas implicações com respeito à questão da escravidão e possíveis mudanças relacionadas com a administração colonial, no entanto, destaca-se que não houve mudança significativa nestes aspectos, embora fosse um impacto fundamental no aspecto político e ideológico.

Palavras-chaves: Constituição, Cuba, Problema colonial.

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Objective

The presentation of a study evaluating the historical significance of the Spanish Constitution of 1812, the treatment of the colonial problem and its impact on Cuba.

Methodology

The research is based on the theoretical assumptions of the Materialist Dialectic. The triangulation of sources and data, is a guarantee that ensures the scientific level of the same. We analyze the data provided by the existing bibliography on the subject and the archival documents.

General Results

An evaluation study about the historical significance of the Constitution of 1812, the treatment of the colonial problem and its impact on Cuba, based on the essence of Spanish liberalism of the early nineteenth century.

Introduction

The Constituent Courts of Cadiz extended their work between the 24 of September of 1810 until the 19 of March of 1812. Formally, they were integrated by 308 deputies in representation of the provincial juntas and the territories of America and the Philippines; although the difficult circumstances in which they took place generally led to a smaller number of members, the first session was attended by 104 deputies.

Heading 1.1. Socio class-conscious composition of the deputies to the Constituent Courts of Cadiz

In the composition of the Courts, the high number of ecclesiastics, the large representation of civil servants and lawyers, and the small percentage of members of the commercial bourgeoisie stood out from the socio-professional point of view, although they all belonged to what can be considered the *classes instructed*.

In its sessions, from a political-ideological plane, three tendencies were evidenced: the realists or absolutists, who advocated the return of the House of Bourbon without modifying in essence the previous political system; the Jovellanists (followers of the political thought of Gaspar Melchor de Jovellanos), impregnated with the spirit of the enlightenment and convinced of the necessary reforms, but reticent to the revolutionary practices; and the liberals, who advocated the incorporation of reforms in line with those carried out by the French Revolution. The American deputies did not form a tendency in the strict sense of the word but allied with both groups, according to their social origin and the subject that was debated.

In general, the main topics that were discussed were:

- The form of government with the establishment of a constitutional monarchy, from the division of powers: legislative body, represented in the Courts; executive power,

personified in the King and judicial power, independent of the government.

- The abolition of dominions and the status of the citizen to all free men born in Spanish territory, including Americans, regardless of social origin and skin color. In this regard, slavery was a controversial issue.
- Relations between the Church and the State, which suppressed the Holy Inquisition, Spain was conceived as a secular state, although the only recognized religion remained Catholic.
- The political-administrative division in provinces and municipalities, as a basis for the indirect election to Courts, with the recognition of the rights of the American territories and the colony-metropolis relationship.
- The classification and payment of the national debt, linking the resolution of economic problems with confiscation, and other measures that affect aspects such as the reorganization of public contributions or the abolition of trade union organization.
- The basic rights of the citizen, such as freedom of the press, juridical equality or the inviolability of domicile, were debated, which would be the basis of the new social model based on an individualist conception of the principles of liberty, equality, and property.

The American deputies in the Extraordinary Courts of Cadiz constituted a heterogeneous group as to their form of election, which

united regularly in the face of the problems posed concerning the American provinces (Lev-Millan, 1988) of the Empire. Those elected by the provinces were bearers of distinctly local claims. The same in the opinion of Marie-Laure Lev-Millan in his work: *The American deputies in the Courts of Cadiz: Elections and representativeness*: tried to make the most of the liberal principles handled in the Courts (Lev-Millan, 1988). Although the reforms were applied, very partially in America.

In essence, the word “autonomy” was not used in Cadiz; these deputies distinguished between two tendencies managed within the Courts: unitary state (“the unit of government” according to Arguelles) and federative state. Nevertheless, the representatives of America tried to obtain a great internal autonomy for the provinces, without arriving at the formation of federal states.

According to the Constitution of 1812, the deputy represented the whole nation, and not one of the parts that composed it. He had complete freedom of opinion and received no precise mandate from his electors, except a very broad power. It did not represent the particular interests of the province that had chosen him.

Therefore, the double dichotomy in this historical process, were not prosecutors of the Old Regime, but also *deputies* in the sense defined by the future Constitution: they were in constant contact with their provinces (city coun-

cils, ecclesiastical authorities, etc.) from which they received *instructions* which some considered as real mandates.

The Antillean islands sent their deputies¹ (6 in the Extraordinary Courts). In Cuba, elections were the indicator of local tensions or regional imbalances, and they showed the true power relations in each place.

Of the 86 American deputies present in the Courts, 25 were ecclesiastics and 22 lawyers or magistrates. Some were rich, especially the Cubans who lived in Cadiz, accompanied by their slaves and servants. Those who represented the slave-owning sugar oligarchy. In a general sense, the group of American deputies represented the white Creole society of colonial America, desirous of enriching itself and assuming power in the provinces.

These deputies reflected the persistent, though reforming, the loyalty of overseas society. The changes they defended for Spanish America was an alternative solution to absolute independence; attempted to achieve the “decolonization” of America within Hispanic unity, a solution that would have enabled Americans to achieve their concrete goals without the “risks” of a political revolution.

¹ In total, 86 deputies overseas took their seats: 29 alternates elected in Cadiz; 36 owners by the Town Halls (two of them were alternates later chosen by their city); 23 constitutional deputies. Not everyone was present at the same time. The alternates that represented Cuba retired when all the owners of the province arrived.

Epigraph 1.2. The debates in the Constitutional Courts of Cadiz in 1812: the colonial theme for Cuba.

For this purpose, important issues were analyzed, among which were the form of political organization in the provinces, equality at the political level, wars of the independence of South America, called civil war or war between brothers by metropolitan deputies, the economy, subscriptions and voluntary donations to defray the expenses of war, abolition of the slave trade, education, the establishment of two intendancies in the island of Cuba, the problem of tobacco control, as well as immigration processes, among others.

One of the issues addressed was the equality in the political plane of the Spanish Americans with the peninsular, due to the differences that existed in the political status of Colonies with respect to the metropolis. These disparities were demonstrated in the composition of the Courts: where the Americans were a minority. It should be noted that in the peninsula one deputy was elected for every 50,000 inhabitants, while in the colonies, the town halls selected one for every 100,000. Rafael María de Labra referred to this in *The electoral reform in the Spanish Antilles: (...)* “so that, gentlemen, the decrees of the celebrated Courts of Cadiz most fought by the American Deputies were those relating to the differences of representation of the old and the new continent ... were the protests arising from the fact that while in The Peninsula were elected Deputies at the rate of one per 50

000 souls, or by universal suffrage, and by the Provincial Boards in America were elected by the City Councils at the rate of one Deputy per 100 000 white and free inhabitants".²

Known provincial autonomous juntas, which extended to Spanish America, formed under the pretext of the defense of the rights of King Ferdinand VII and the struggle against the French invader, were transformed into separatist institutions; a situation that might have had in its beginnings some relation to the disparate composition of the elections to the Courts of the deputies overseas, with respect to the peninsulares and the little attention, during the debates, to the American affairs, but that in essence represented the interests but which in essence represented the interests of the Creole oligarchies.

The process of transformation of the overseas self-government boards, which previously recognized the person of the Spanish monarch, takes place in an environment of increasing violence and military conflicts, which extend to the continental level, leading to the declarations of independence in the respective colonies.

An analysis of the debates in the Constituent Courts allows us to understand that the historical reality of the application of the

Constitution entailed the introduction of the national laws of the Iberian Peninsula in the American domains, representing the interests of the emerging Spanish bourgeoisie.

Who remained faithful to Spain, particularly the West Indies, placed themselves in reformist and conciliatory positions, called for peace with the metropolis through a speech that urged, to lend the attention required to the affairs of America and called for the creation of an institution dedicated only to the problems of the Indies. In this context, the Constitution formally recognized the rights of the overseas provinces and established, in theory, equality of representation in both hemispheres to the Courts, provided that the electors and their representatives would be citizens.

This position was assumed by the deputies of the island of Cuba, who, in a conciliatory tone, declared themselves against the independence process. In this regard, Deputy Andrés de Jauregui expressed: "*We are all and will always be Spaniards*,"³ according to his opinion, no differences were to be established between *European Spaniards and American Spaniards*, and he called for peace of the insurgent colonies with the mother country.

This attitude was in concordance with his class position and the defense of slavery, al-

2 Rafael María de Labra: The electoral reform in the Spanish Antilles: Speeches. Apud. Olga Portuondo Zúñiga ob cit., P.59.3.

3 Session of March 10, 1811. Congress of Deputies. Historical series in magnetic carrier, 1970.

though the feeling of Spanishness prevailing at the time among the Creole oligarchy is not denied.

At one point in the debates, it is argued that the island of Cuba had deposed its authorities and formed a governing body, which showed that the island had been disturbed by order. Andrés de Jáuregui denied the previous statement and requested that his criterion be inserted in the Acts and in the Journal of the Courts, to vindicate the fidelity of the inhabitants of the colony, in order that the public should not be induced to an error of so dangerous consequences.

Regarding the form of political organization in the provinces, the overseas deputies argued for greater autonomy and decentralization within the Spanish monarchy. These proposals were based on the reforms valued by the Bourbon reform of the eighteenth century. This situation was opposed to the nascent Spanish liberalism, which advocated absolute control of the provinces by the metropolis.

There were also disagreements between peninsulares and creoles with respect to the size, population and wealth of the provinces, as well as their political organization. While a new political administrative organization was approved for the metropolis, it continued to use what had been established until then, based on the old viceroalties and general captaincies, evidencing a lack of effort and commitment to

propose a form of government that responded to the peculiarities of the overseas territories.

The peninsular majority approved article 324, which established the creation of a form of government, called provincial deputation, with economic and administrative prerogatives, constituted by only seven members. The Creole deputy, Jauregui considered that the provincial delegations, in the Indies, had to be conformed by 13 vowels, with elective character; if we take into account the differences between the provinces of America, in terms of the number of inhabitants, wealth and extension of the territory.

In relation to the creation of provincial councils, Deputy Juan Bernardo O'Gavan representative of Santiago de Cuba, defended the right of the region to have an autonomous deputation independent of Havana, only dependent on the central government, for which, it makes a foundation based on the precepts already approved of the Constitution, and exposed the differences that existed between the two centers of power in the Island.

O'Gavan's claim responded to the aspirations of the Santiago oligarchy, which penetrated the plantations field, extended its range of action towards Guantánamo Bay and underwent an important development in particular with sugar investments and coffee plantations. To this group were joined the proprietary classes of Bayamo and Holguín that had not

received the benefits of the Crown, only the changes introduced in the Island had benefited fundamentally to the western region with epicenter in Havana.

In this aspect different criteria were emitted, including conceptions opposed to the pretensions of O'Gavan, deputies like the Catalan Jose Espiga and the representatives of Havana, who did not believe necessary the installation of the Diputación santiaguera. The situation led the Asturian Agustín Arguelles to even doubt the preparation and knowledge of the American delegates on their territories and takes as an example the differences of opinion among the deputies of Cuba, so he proposes to Congress to approve so many Provincial Councils as it considers necessary.

Finally, articles 324 and 325 of the Constitution were approved, which established as new form of government: the provincial deputation with seven members, although this membership could vary depending on the real circumstances of each one of the territories.

The deputies representing Cuba in Courts highlighted the potentialities in natural resources and geographical position of the island and the beauty of insular nature. In addition they emphasized that they extracted exquisite varieties of wood and abundant fruits, propitious to export, because it had several ports. However, it lacked a diligent government, able to take advantage of these benefits, to which

it was added, established by the obstacles and high taxes of the central government.

They stated that the main crops were sugar, coffee and wax, whose lines were not sufficiently promoted, an aspect that affected the few benefits obtained and the contribution to the solution of the needs of the inhabitants of the Island. They also referred to tobacco, which was in great demand in the Spanish and world markets, nevertheless the deputies considered necessary to increase the price of its commercialization. In the end, a consensus was reached not to increase its price and to keep the tobacconist intact, justifying the smuggling that took place on the Island.

A controversial aspect was the labor force formed, in large part, by the hand of slave labor. The low labor force, according to the deputies was the reason that the majority of the lands maintained their virgin state, at the same time, the capital was scarce and unproductive lands were conserved in the hands of the State. All this prevented the inhabitants from gaining more advantage.

It is evident that a classist criterion about the labor force prevailing in opposition to the abolition of slavery, a subject widely debated in the Courts. The representatives of the island defended the interests of the landowners, who considered the slave as a valuable investment, but who did not deny free white emigration, although they knew the inconvenience that

was not directed to the plantations. It should be recognized that they only took into account the material meaning, not the humanist, as advocated by the emerging Spanish liberalism. In fact the great owners had always had a close alliance with the absolute monarchy.

In the debate on the subject of slavery on the island of Cuba was added the fear of the black and a new Saint-Domingue. In this regard, Andrés de Jáuregui stated: (...) *If this trade continues, it is necessary to declare that slaves cannot be used, but in the plantations and places where they are only claimed by agriculture, but not to cities and towns of consideration, because in it the negros are very unwanted.*⁴

In Cuba the reformer Francisco de Arango and Parreño was the most important spokesman in favor of the slavery. In his presentation to the Courts, with a qualified ability of humanism, he argued: “V.M. Sir, he must recognize that the removal of the unhappy negroes from their country, and to keep them here in their slavery, is not the work of the individuals, but of the Sovereigns who put us in such a case, and of him he cannot take us hastily, decreeing our ruin, and forgetting in a moment all or that we have been preached, and we have been sent for more than three hundred years” (Larúa-Guedes, 2012).

With similar ideas expressed the Mexican deputy Mejía Lequerica, who proposes the abolition of slavery, offering as an argument that: (...) *the liberation of an immense multitude of slaves, in addition to ruining their owners, may bring unfortunate consequences to the State.*⁵

The abolition of the slave trade was one of the more controversial issues debated in the Courts. The liberal deputy Agustín Arguelles, pronounced for the abolition of the slave trade. This deputy considers it necessary to eliminate the trade of blacks because of the danger it posed for the stability of some colonies in America. He also argues the need to set an example with allied nations that have abolished this evil traffic, such as England and Portugal and urges Congress to take a quick determination and not wait for the promulgation of the Constitution.

The representative for the island of Cuba, Andrés de Jáuregui, considered that because of the delicacy that this subject is, it should not be dealt with in the Courts, and if it was discussed, it should be secretly, he also expressed, that in the Cuban territory there was tranquility and that a resolution that did not respond to the interests of the owners could lead to serious consequences, trying to intimidate the Council of Regency, with a possible uprising of blacks, in the style of the one succeeded in Saint-

4 Session of April 27, 1811. Congress of Deputies. Historical series on magnetic media, 1970.

5 Session of April 2, 1811. Congress of Deputies. Historical series on magnetic support, 1970.

Domingue, an action that France could not control. The proposal for the abolition of the slave trade debated in the Courts was a dead letter when it came to translate the articles of the Constitution of Cádiz.

In relation to the right of citizenship was manipulated the liberal principle of equality of citizens, only for free men. On the theoretical level, the Constitution did not differentiate between men for the color of the skin or social classes and recognized as a citizen all free men born in Spanish territory, including the emancipated.

Among the pressing economic problems was the one related to the administration of land and the sea, denouncing the innumerable receivables, in which several obstacles occur; in addition, it addresses the destination of the products of subsidy of war that has decreased, ignoring in what is used the funds collected by the Treasury.

Regarding Cuba it was valued that the accounting and treasury did not administer of correct way the riches of the Island, circumscribed Its functions to receive funds and make low payments, a method that was unsafe and that provoked theft in both offices. This situation sought to be amended by the Constitution, which through articles 346 and 350, directed the creation of regulatory institutions as a treasury and a larger accounting of accounts.

The Extraordinary Courts reflected the concern on the part of the Treasury officials about the creation of two new intendencies. On the island there was that of Havana and it was proposed to create one in Santiago de Cuba and another in Camagüey. They would aim to centralize economic functions to promote agriculture and trade. The representative criollo Jáuregui representative of Havana was not in agreement with the proposal of the new intendencies that would limit the hegemony of Havana, since it constituted the fundamental center of the economy of the country.

According to the criterion of the deputy Jáuregui, the situation would be surpassed if the main problems regarding the administration of the intendancy were to be known, so it was urgent to select honest, responsible people capable of carrying out their work in order to achieve the expected results in the collection of taxes.

This representative stated that he did not know what The taxes established in Cuba were used because the inhabitants did not appreciate the benefits of the tax charges and considered that the taxes had to have fixed limits, supported by a correct economic administration, that allowed to solve the needs of the colony, and to contribute to the tax of homeland.

The deputy also expressed his acceptance of the composition of the economic boards and expressed his dissatisfaction with the measures

taken in the Courts with the aim of reforming the economic administration given its inaccurate preparation on the subject; concluded his presentation by depositing his trust in the Courts and seeking the consultation of the Provincial Delegation of Cuba, for the approval of the intendencies. This issue, although not included in the articles of the Magna Carta, marked the establishment of two new intendancies, one in Santiago de Cuba and another in Camagüey.

The analysis of migration problems led to a consensus to maintain existing laws, which authorized the establishment with the vicinity of any foreigner who professed Catholicism and applied to agriculture, the arts and trades, forbidding them to exercise their trade, demanding an oath of respect and obedience to the laws of Spain. They also established the necessary requirements to acquire the status of Spanish citizens.

Representatives for the island of Cuba defended the right of foreigners to naturalization and to keep intact the properties they had acquired through their investments for years in the Island. The particular case of the French raised the sale of the properties of the exiled, in order to help the Spanish economy, without affectation to the other owners.

In addition, the Spanish deputies added to the previous criteria, considering that the Constitution Established respect for all foreign

property, considered among the principles that will always respect the Spanish Nation. Finally, the criteria were defined and reflected in article 4.

Another aspect that was addressed in the Courts was the attention to the higher education, where it was valued that the inhabitants of overseas could acquire it traveling to the Peninsula; an aspect not accepted by the American deputies, who pointed out the economic limitations of many of the creoles who aspired to raise their level of education. Therefore, the American deputies proposed the development of these studies in their own territories, without needing so much effort and thus to obtain the same title that the *peninsular Spaniards* themselves.

With this aspect coincided many peninsular deputies, like Francisco Gutiérrez that indicated the great inconveniences that brought to the Americans a stagnation and monopoly of the enlightenment, reason why it was necessary to suppress all the arbitrariness related to this point.⁶

In addition, it is recognized that the Constitution of Cádiz picks up directives that raised the obligation of the education and the culture, with the consequent establishment of the nec-

⁶ Session of January 17, 1811. Diario de Cortes, vote of Mr. Francisco Gutierrez de la Huerta, deputy for the province of Madrid. Congress of Deputies: Historical series on magnetic media, 1970.

essary schools for this purpose and the conformity an equal way of a curriculum for both hemispheres, where the political Constitution of the Monarchy should be inserted for the knowledge of all the inhabitants.

In the Courts the subject of the contributions to defray the expenses of the war against the invader was treated of the Peninsula. In the specific case of Cuba, public collections were made for the defense of the Monarchy represented by Fernando VII and the preservation of Spanish sovereignty in the continental colonies. In this context, the Royal Consulate of Havana approved new subsidies in the amount of 200.00 pesos for the formation of an army that re-conquered the territories where the so-called civil wars took place.

The development of events in America between the years 1810 and 1812, where an alleged civil war was taking place, it was reflected in the Courts of Cadiz, in which American deputies who supported a reformist position were maintained, which equated the Creole oligarchy with the ruling classes of the metropolis. They emphasized their status as Spaniards, who defended the nation of the French and rendered obedience to King Ferdinand VII. The reflection of these circumstances was reflected in the articles of the Constitution of 1812.

In general, the analysis shows that the precepts approved in the Constitution of 1812 did

not meet all the reformist aspirations of the American deputies regarding equal rights and autonomy of the provinces of Overseas. These had presented a group of measures: the right to free trade, the suppression of the tobaccoist, the access of the Americans to positions and public jobs in parity with the Spaniards, the creation of advisory boards in each viceroyalty and general captaincy, the creation of a new administrative political division similar to that of the Spanish provinces, among others.

The precepts of the Constitution, in the brief times in which it was in force, were applied partially and at the convenience of the Spanish authorities and hegemonic classes of power. In the case of Cuba, the lack of preparation and conditions for its implementation were evident. Nevertheless, it meant a momentous moment in the history of Spain, with important incidences in Cuba.

Conclusions

- The Constitution theoretically recognized equality between the provinces of the Peninsula and those of the Overseas Territories, although the Spanish liberals made sure that the legal instrument secured the metropolitan dominion.
- The representatives of Cuba raised the particularities of the island, although they did not always agree among themselves, and there were differences between the delegates of Havana and Santiago de Cuba, especially with regard to provincial representation, for

while Havana advocated a single province to be established in Cuba, the santiagueros aspired to the separation of Havana.

- Another issue of singular importance for the representatives of Cuba was that of slavery. There was unanimity among them, regarding the defense of the slave institution, which they considered essential for the development and tranquility of the Island and did everything possible to counter the radical liberals who advocated the abolition of slavery.
- The Constitution ignored the problem of slavery, since in its articulate does not appear reference to the same, although it implicitly recognizes it, when it declares that all men born free in the Hispanic domains are Spanish citizens. Precisely the condition of citizens that recognized the Constitution to the free criollos of color in Cuba, was cause of concern for the Cuban slaveholders and one of the limitations that prevented its full application in Cuba.
- The Constitution of Cadiz was only partially applied in the Island in relatively brief periods. The Spanish authorities and the Creole oligarchy agreed that the socio-economic conditions made their full application perilous. In fact, it did not produce any significant change in the transformation of the colonial administration, its fundamental impact occurred politically and ideologically, as colonial society shook and influenced the birth of the political and ideological currents that would dominate the Cuban nineteenth century.

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