

Distant Neighborhood : The Future Bolivian Constitution

Christophe Barbey

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Last year, we mentioned in this column the possibility of Bolivia abolishing its army. The Constitutional Assembly concluded its work in December 2007² and, unfortunately, it does preserve the military institution³. However, this constitution is largely worth our attention, as it promotes peace in a way that has rarely been achieved so far.

First, we shall mention that at the time of our writing, the vote to approve this constitution did not take place yet, since the Elections Court estimated that the campaign period, initially set for May 4, was too short. A new date is not available yet⁴. However, Evo Morales, President of Bolivia, submitted his mandate to a referendum which should take place on August 10, 2009⁵.

Reading the text, first we shall mention that the Constitution preamble includes peace and well-being. Then, article 10 paragraph 1 mentions that "Bolivia is a peaceful State that promotes the culture of peace and the right to peace, as well as cooperation among the peoples". This says it all. Even though the right to peace is not formulated as a human right to peace (too bad!), the remaining text of the constitution includes provisions that allows one to think that peace is actually a human right in Bolivia as all the necessary components of such a right are present. Every person has the right not to suffer from any violence (Art.15.II), the State has the obligation to prevent, eliminate and punish violence (Art.15.III). A constitutional procedure to redress violations is included (Art. 110 onwards). Art.115 in particular repeats the right not to suffer from violence as it includes an absolute and constitutional ban on all physical and moral violence.

The constitutional definition of violence is vague, purposefully. Are inequalities, important in Bolivia, a form of violence? What is the limit between what constitutes violence and what is acceptable? And what if the absence of violence does not translate itself into a proactive, sustainable, dynamic and established peace? It will be the task of the Courts to specify where violence starts and what is not, and to enlarge the definition. But also, as may be, the courts will be able to promote harmony and the human right to peace through these dispositions.

The proposed constitution also includes several other essential dispositions regarding peace. Bolivia rejects war, in all circumstances, except for legitimate defense (Art.10.II). This disposition is important since it implements in the text of the national constitution the international interdiction of

¹ This article is part of an ongoing bilingual series titled « Peace and constitution » and available on the APRED website. The French versions can also be found here <http://www.gssa.ch/spip/spip.php?rubrique6> or from the author.

² The project of the constitution can be found at :

http://www.presidencia.gov.bo/asamblea/nueva_cpe_aprobada_en_grande_en_detalle_y_en_revision.pdf

³ Articles 159.21 and 159.22 art.160.10 art. 244 to 247. Unfortunately, the Constitution doesn't include the civil service.

⁴ The vote finally took place on the 25th of January 2009, and the constitution was approved by 61.4% of the voters.

⁵ That he did win. *Note added later.*

war included in the UN Charter. Only the Italian and the Japanese constitutions contain such dispositions and more countries should adopt similar disposition in order to exit the “age of war”⁶. According to the Bolivian Constitution, peace is also a duty (Art.109). This is a significant progress to the extent that each citizen takes responsibility for peace. Thus, security does not only rely on police and the military forces of the State, responsibility to create and promote peace is vested upon each and every citizen. And in order to develop the means to implement it, education in Bolivia will be “humanist and nonviolent”, conducive to “dialogue and civism”. (Art. 78.III and 79). Since Bolivia suffered (and still suffers) from a lot of violence, this is an important goal and an achievement to have it in the constitution.

Besides preserving the army and proclaiming peace as a human right without saying it, the Bolivian Constitution has several other flaws. It does not make particular reference to mediation and soft power, nor does it include an Ombudsman procedure. Therefore, it approaches the dynamics of peaceful conflict transformation in a superficial manner. Too often we forget that peace is to be made by peaceful means and that peace tools for conflict management need to be provided for.

Nevertheless, for the most part, this is an excellent constitution. Hopefully it will be ratified and help the Bolivian people to create the society worth of their ambition and of their constitution, and so for the Bolivian people itself and their Constitution to be outstanding examples worldwide.

Wishing a great summer to everyone ... and please remember that you to, you are also responsible for peace.

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Translation Crina Resteman

⁶ Art.2.III and IV of the UN Charter. Art. 11 of the Italian Constitution. Art. 9 of the Japanese Constitution. Ecuador has such a disposition as well.