

The Ideal Constitution¹

Despite countless writings, there are very few founding texts, grounding and defining humanity as a whole. The Universal Declaration of Human Rights is one of them. Religious texts can be considered as such as well, but although they are impressive, such texts do not always exclude violence from their contents and they mainly of regional influence, whatsoever. Similarly, constitutions also have this “founding” dimension, in their sphere of influence. Most civilizations have used them and they all have similar contents. Their practical significance is important and they continue to improve considering both the rights they provide and the objectives they establish. Allow us to participate to this effort by contributing a few humble propositions (in italics).

The existence of a preamble is logical and necessary. *“...Wishing to establish peace as a sustainable and universal value and determined to accomplish this goal by peaceful means ... we give ourselves the following constitution: ”*. The style is not that important as long as it is beautiful and understandable. The content transposes a value into reality. It also points out to the means.

The fundamental rights are part of any constitution. They are somehow the love connection – or at least, they should express and define the happy relationship - between the people and the authorities. They must guarantee peace and they already do this to a certain degree.

The right to peace is actually often present as the right to personal security². Nevertheless, it should be developed and specified. *“Every human being has the inalienable right to live in peace. This right particularly involves the right to an education which favors the promotion and concretization of peace, the right to security and disarmament, the right to be protected from fear and from violence propaganda, the right of access to procedures which allow conflict prevention and conflict solving without further harm or violence, the right to conscientious objection or the right to not have one’s inventions used for military ends. Peace is also an obligation; it is an individual, collective and institutional responsibility. The use of force towards the implementation of the right to peace is to be strictly controlled. Force can only be used if and how the law permits, as a last resort or if prevention has failed. Without exceptions, the use of force will be documented in a public report. Anyone has the right to call for an investigation of and should it be the case, to stop and rectify infringements to the right to peace”³*. The list of the content of the right to peace is open to other possibilities. As every right to be efficient, it must be accompanied by one or several means to enforce it and make it progress, reports and legal procedures. Fundamental rights can be accompanied by obligations. Peace is certainly a value that calls for reciprocity and responsibility.

Every constitution includes a part that refers to the organization and the tasks of the State: “Through its actions, the State must see that peace and justice prevail”⁴. The State ensures public order and looks out for its respect through education and prevention. Its actions will show restraint and

¹ This article follows other articles on « peace and constitutions » published in <http://www.gssa.ch/spip/spip.php?rubrique6>

² Art. 3 of the Universal Declaration of Human Rights and art. 5 of the European Convention of Human Rights guarantee the right to safety.

³ It is important to allow the possibility of a ruled use of force, but it is not my intention to tolerate a reality in which force and violence are present or necessary. Besides, it would be a mistake to blame the person who expresses violence while we know that our civilization generates, tolerates and sometimes encourages structural violence which is less visible, but equally serious. (E.g., there are more deaths resulting from social inequality, hunger and poverty form than violence and war). Finally, if violence exists, as far as the State is concerned it is possible to regulate it and consequently, to reduce it. This is the option we chose.

⁴ We borrowed this formulation from art. 61lc of the constitution of the Swiss Canton of Vaud.

moderation in order to serve as an example. The states implements and maintains all the necessary means for mediation, for the creation of spaces for dialogue and it will favor to the outmost the eradication of violence.

Peace is a choice concerning every society – in its state structures as well. It is consequently logical that the State should stimulate and participate to peace efforts. What other better way to do it than under the influence of a constitution which expresses the right to peace of each and everyone?

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