

# The rights of nature, new forms of citizenship and the Good Life

– Echoes of the Constitución de Montecristi in Ecuador

*Alberto Acosta*

Every constitution synthesises a historical moment. Crystallised in every constitution is an accumulation of social processes. And in every constitution a certain way of understanding life takes shape. And yet, a constitution does not make a society. It is society that produces a constitution and adopts it like a roadmap. Besides, a constitution must be more than merely the result of an exercise in advanced jurisprudence, seen through the logic of constitutional interpretations, and it is certainly not the product of one or a few enlightened individuals. Beyond its indisputably legal function, a constitution must be a political project for a common life, to be elaborated and given effect through the active participation of all citizens.

From this point of view, the recent Ecuadorian constitution (produced in the city of Montecristi), which remained faithful to pent-up demands and responded to prevailing expectations, assigns the undertaking of structural transformation to itself as both a means and, indeed, an end. In it are expressed multiple proposals for radical changes constructed over the course of many decades of resistance and social struggles, changes that are often impossible for traditional constitutionalists to accept (or even to understand).

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## *The new state*

A basic feature of the new constitution is the declaration of a liberal constitutional state based on notions of rights and justice: a state that is social, democratic, sovereign, independent, unified, intercultural, plurinational and secular. This definition opens up the possibility of a new, multiple-entry pact of broad coexistence. Without claiming to exhaust the definition of plurinationality, it is important to highlight the way in which this concept leads to a rethinking of the state in its overdue acknowledgment of indigenous peoples and nationalities, as well as its acknowledgment of the presence of other national communities – a genuine qualitative leap compared to the Eurocentric, monocultural perspective dominant until now. This is why it is necessary to reformulate the relations of power between state and citizenry, so that the latter become the true sovereigns. The crisis of political representation that has affected, and still affects, many parliamentary systems implies a crisis of constitutional law inasmuch as ‘popular sovereignty’ is subject to various private desires. This contradiction of the demands of the citizenry creates a crisis of legitimation: constitutional right has all too often existed on paper only.

The task is to overcome the range of norms that were explicitly or implicitly agreed by the big economic agents that acted independently of public powers in their relations with each other or the state. Ultimately, these norms, stemming from private interests, including transnational agents (IMF, WTO, Free Trade Agreements, to name just a few sources of this transnational law), have determined political relations with the state.

This has entailed devaluation of constitutional law and of constitutions themselves, with a loss of sovereignty by the people.

## *The Good Life*

The Ecuadorian constitution calls on both individuals and collectivities to achieve the Good Life (*sumak kausay*). Society is invited to take part at every stage and in every arena of public management and planning for national and local development, and the execution and control of the plans for development (or rather, for the Good Life) on every level. The Good Life will never be a gift from powerful groups. The construction of an equal, egalitarian and free society will only be possible through the participation of all. And its attainment will require contesting the privileges of present dominant elites, without allowing new elites and new forms of domination to emerge.

The true constituent process begins immediately the constitution is adopted. This process demands a greater and more profound constitutional pedagogy, as well as a mobilised society that can propel the materialisation of constitutional achievements – in other words, a process of constituting citizenship.

The consolidation of new constitutional norms into laws and a renewal of politics consistent with the proposed changes is a task that calls on all in the city and the country to continue on the path of mobilisation. The emptying-out of the historical content of the constitution must be prevented, for example, by way of new laws and institutions.

## *Post-development?*

The Montecristi constitution, and this is perhaps one of its greatest merits, opens up a struggle over the historical sense of development. In fact, the Good Life brings us directly to an as yet unexplored age, that of *post-development*. With the Good Life, what is rejected is the vision that purported to take us down the road of perpetual accumulation of material goods as an index of development and progress, a road that leads nowhere but to humanity's self-destruction.

We understand once and for all that we must look for alternative ways of dignified and sustainable living, ways that are not a mere caricature of the Western lifestyle and even less a continuation of structures marked by massive social and environmental inequality. We will have to solve existing imbalances and, particularly, to incorporate criteria of sufficiency rather than try to sustain, at the cost of the majority of the population and of nature, the logic of efficiency understood as ever-accelerating material accumulation for the benefit of a small fraction of society.

We are aware that these new currents of legal thought are not free of conflict. In abandoning the traditional concept of law as a source of right, the constitution has consolidated a juridical point of departure independent of traditional visions. It should come as no surprise, then, that this new charter has generated conflicts with traditional jurists, not to mention with those who are used to having their word (and especially their interests) become law.

## *The rights of nature*

The rights of nature, which constitute 'a catastrophe for the Roman-French legal tradition', have been described as 'conceptual gibberish'. For those who wish to conserve the law (or defend the privileges of oligarchies?), who are essentially unable to understand the transformations taking place right now, it is difficult to understand that the world is constantly moving on. Throughout history, each creation and expansion of rights has always appeared as something previously unthinkable. The emancipation of slaves or the extension of civil rights to African-Americans, women and children were in each case dismissed as nonsensical. For slavery to be abolished it was both necessary to recognise 'the right to have rights' and to exert political pressure to change the laws that denied those rights. In order to free nature from the condition of being a rightless subject or a simple object of property, political pressure to have it recognised as being entitled to rights is also required.

To endow nature with rights, therefore, means to politically secure its passage from object to subject as part of a centuries-long process of expanding who or what becomes a subject with rights. This is a process that has been enriched by the struggles and contributions of many peoples, not only those from the Andes. It will not be easy to consolidate these transformations, especially to the extent that they affect the privileges of the circles of power, which will do everything to stop the process of change. But one day, maybe not too distant, we will see a Universal Declaration of the Rights of Nature as an inseparable complement to human rights.

The conflict and resistance that groups whose privileges are threatened can unleash, will – perhaps surprisingly to some – be positive for society as a whole, since they will evoke an organised response on the part of the majority. It is crucial to stress that the constitutional advances are not a gift of any one individual, but the result of struggle involving broad sectors of the population. Therefore, as part of the collective construction of a new contract of social and environmental coexistence, it is necessary to create new spaces of freedom and to remove all the obstacles that prevent them from becoming effective.

The source of these contradictions lies in the continuing power of a developmentalist theory and practice that are characteristic of an extractive (primary commodity-exporting) economy – and which have not only failed to achieve the desired development, but have also undermined our natural conditions. This stupidity continues, in fact, in all currently progressive governments in Latin America. Despite their considerable advances in some areas, social in particular, they still have enormous difficulty in creating new styles of development. They show no sign of kick-starting a new mode of sustainable natural-resource use to benefit the whole of society and secure the rights of nature.

Current governments – even in Ecuador – remain tied to neo-developmental perspectives and practices that necessarily contradict the spirit of the Good Life. This is why it is imperative not only to overcome neo-liberal practices, but also to strive towards a harmonious relationship between society and nature, that is, the Good Life.

### *Freeing the flows of people*

In contrast with the course of capitalist globalisation, which blocks the flows of people, the Montecristi constitution proposes citizenship with universalised dimensions. The rights of those who have emigrated have been consolidated: not only can they vote in Ecuadorian elections, but they will have their own representatives in the National Assembly, with full power to initiate political measures, including proposing laws. The state will create incentives for the return of the savings and goods of expatriates, so that these resources can be deployed as productive investment in the country in ways decided by the expatriates themselves. Incentives will also be created so that they voluntarily participate in social security. The constitution also grants similar rights to migrants and citizens: those living in the country for more than five years will be allowed to vote, without the need for bilateral agreements with their countries of origin. It will be impossible to expel them to countries where their life, freedom, security or integrity, or that of their family members, will be at risk because of their political opinions, ethnicity, religion, nationality, ideology or membership of certain social groups. Likewise, the expulsion of groups of foreigners is banned: migratory processes must be regularised.

We do not wait for the world to change so that we can make advances in the field of migration: we act to change the world. These proposals concerning human mobility appear in the wider context of furthering the principle of universal citizenship, freedom of movement for all inhabitants of the planet and the progressive elimination of the

condition of being a ‘foreigner’ as elements in the transformation of unequal relations among countries, especially those between global North and South. To that end, the creation of a Latin American and Caribbean citizenship is promoted, as are the mobilisation of policies that guarantee the human rights of border populations and refugees and the common protection of Latin American- and Caribbean-born individuals in their countries of arrival and transit.

### *Conclusion*

To sum up, if we want to change the world – and this is indeed the task –, it is insufficient and extremely dangerous to apply the paradigm of development as conceived in the Western world. Not only is this not synonymous with collective wellbeing, it also places the very life of humanity at risk. The Good Life transcends the mere satisfaction of needs and access to goods and services. From the point of view of the philosophy of the Good Life, which embraces the essence of indigenous cultures and the proposals for building a sustainable world being debated the world over, we need to question the traditional concept of development. This ‘development’ has led to generalised ‘misdevelopment’ (José María Tortosa) across the planet, including in those countries considered developed. Neo-developmentalism, or ‘senile developmentalism’ (Joan Martínez Allier), is not the path to development, let alone the Good Life. The growth and greater availability of revenue has not in and of itself secured the wellbeing of any country. Let us insist that the permanent accumulation of material goods has no future.

The Good Life has to do with a series of

social, economic and environmental rights and guarantees. It is also ingrained in the principles that guide the economic regime, which promote harmonious relations among human beings individually and collectively and with nature. It is, in essence, a matter of building an economy of solidarity, at the same time as various sovereignties are recovered as central to the political life of the country. We cannot depend primarily on the revenues generated from natural resources, but must rely on the efforts of human beings in coexistence with nature. To achieve this, it is necessary to expand social capacities, starting by recovering and strengthening multiculturalism as an essential element of change.

We are faced with the imperative of the democratic construction of a genuinely democratic society, steeped in the values of freedom, equality and responsibility, which is dutiful, inclusive, equal, fair and respectful of life; a society in which all can have equal possibilities and opportunities, where individual and collective coexist, where economic rationality is reconciled with ethics and common sense, where the rights of nature are a practical reality – in short, where a plurinational state and the Good Life are one and the same.

*Translated from Spanish  
by Rodrigo Nunes.*