

What Europe Can Learn from South America. Conflict Resolution in the Border Conflict between Ecuador and Peru

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I listened in Vienna to a lecture by Ryszard Kapuscinski, one of the world's most famous journalists and war correspondents, who worked in countries all over the world for more than 40 years. He said that in spite of globalisation, newspapers like «Le Monde», «Il Corriere della Sierra» and «El País», which generally publish the most reports and articles in Europe featuring countries overseas, are actually reducing the number of reports on issues about countries outside Europe. Kapuscinski assumed that on top of that in Europe expertise on foreign countries was lacking.

This article covers the history of the border conflict between Ecuador and Peru, a success story of modern conflict resolution set in South America, thus outside Europe, and will show with the help of this example how modern theories of conflict resolution can be applied to resolve an even long-lasting disputes. At the end of this article I will analyse which lessons can be learnt from this Latin American conflict for existing European conflicts and therefore prove that expertise on issues outside Europe can be very useful and worthwhile for our own continent.

1. The History of the Border Conflict between Ecuador and Peru

The roots of the border conflict between Ecuador and Peru lie within the time of colonisation, when the Spanish colonial territory was divided in administrative units. When the different South American territories became independent, the colonial frontier lines of the administrative units were taken as the frontier lines between the newborn states. This principle, which is referred to as *uti possidetis iuris*¹, caused

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¹ P.-A. Dupuy, *Droit international public*, Paris, Dalloz, 1998⁴, p. 41.

problems for the finding of the boundary between Ecuador and Peru.

In 1802, still in times of colonisation before Ecuadorian (1830) and Peruvian independence², a Royal Degree (Cédula Royal) «transferred the responsibility for the occupation and evangelisation of the provinces of Maynas and Quijos» (these are the provinces the border dispute is about) «from the royal audience of Quito (the administrative unit which became Ecuador) to the viceroyalty of Lima (the administrative unit which became of Peru)»³. Until nowadays there is a dispute between both countries, if this transmission was only an administrative and ecclesiastic one, or also a territorial one; and both countries claimed rights over these two provinces until the final settlement of the conflict on 26 October 1998 (see Map 1).

Being all precise, the history of this border dispute might already start in 1542. That is when Francisco de Orellano discovered the Amazon River. As he started his expedition from Quito, Ecuadorians claim to have rights over the Amazon River, whereas Peruvians affirm that Francisco Pizarro, Spanish conqueror and Vireo of Peru, ran the whole

Map 1: It shows the ambiguity caused by the Royal Degree of 1802. Interpreting the Royal Degree as a territorial shift, Ecuador loses a huge part of «its» territory, the blue area within the black lines, which are the provinces of Maynas and Quijos (together approx. 300,000 square km).



² M. Herz, J. Pontes Nogueira, *Ecuador vs. Peru*, London, Lynne Rienner Publishers, 2002, p. 25.

³ *Ibidem*, p. 26.

expedition and therefore claim their rights in the conflict region⁴.

The insecurity about the Peruvian-Ecuadorian border line could not be resolved during the 19th century due to the weakness and political instability of both newborn states. In the 20th century arbitration and mediation attempts were made by the Spanish King in 1910 and also by the United States of America in 1936 and 1938, which all failed as both countries insisted in their claims for the two provinces. At least in 1936 in the Act of Lima a *status quo* line was fixed between the two countries, which referred to the boundary according to the positions held by both countries *de facto*. However, this *de-facto* line of the Act of Lima did not recognise territorial rights⁵ (see Map 2).

On 23 July 1941 war broke out between the two countries. Due to its military strength, Peru was able to occupy the Ecuadorian province of «El Oro» and threatened with the occupation of Guayaquil (today Ecuador's biggest town with 2 million inhabitants) if its rights were not recognised by the state of Ecuador⁶. On 29 January 1942 Ecuador and Peru signed the Protocol of Peace, Friendship and Boundaries in Rio

Map 2: It shows the *status-quo* line (the line separating the red and the blue sector) agreed on in 1936 between the two countries. It served as a basis for the Rio Protocol of 1942, which still made Ecuador's territory 13,480 square km smaller in comparison to this *status-quo* line.



⁴ J. Griesse, R. Ginestet Menke, J. Paffenholz, B. Thomsen, *Entre Panas y Patas*, Quito, Abya-Yala, 2002, p. 19.

⁵ *Ibidem*, pp. 25-27.

⁶ *Ibidem*, p. 22.

(Rio Protocol) under the auspices of 4 guarantor states, namely Argentina, Brazil, Chile and the United States of America. It took the Act of Lima as a basis for the definite boundary⁷ between the two countries which meant that Ecuador did not obtain access to the Marañon and Amazon River and had to give up its claims for vast parts of the provinces of Maynas and Quijos. Therefore, in Ecuador the Rio Protocol was seen as a humiliation and as «a symbol of injustice and incomprehension by powerful hemispheric states of the legitimate claims of one of the smaller members of the “American family of states”»⁸.

When the Rio Protocol was tried to be executed and therefore the new frontier line demarcated, new problems arose: an aerial survey by the US army revealed that the wording in the Protocol did not correspond to the geographic realities in the region. Therefore a 78 kilometres long trajectory could not be demarcated and the demarcation of the border was stopped⁹. In 1960 the Ecuadorian President Ibarra even declared the whole Rio Protocol null due to the mentioned geographic incongruities and affirmed that it was signed under pressure¹⁰. Once more, the Ecuador-Peru border issue remained unsolved. In 1991 a new crisis came up in the disputed border region which led to military troop movements and military confrontation was avoided by diplomatic means. 4 years later, finally, in 1995 war broke out between the two countries in the disputed border region, which caused the death of hundreds of soldiers¹¹.

Fortunately, the guarantor states reacted immediately, called successfully for a cease fire and were able to launch a mediation process, which finally led to the adoption of the Act of Brasilia on 26 October 1998, which resolved the whole border issue: this peace treaty mainly confirmed the border line convened on in the Rio Protocol. The geographic incongruities that still existed 50 years before were to be resolved by a technical commission which assisted in the demarcation. Sovereignty in the most disputed region itself was interpreted in a very flexible way: a bi-national nature park freely transitable by native communities was to be made both on Ecuadorian and Peruvian territory. Ecuador got private property at Twiniza on Peruvian territory, where a Ecuadorian monument of a battle with buried Ecuadorian

⁷ The boundary foreseen in the Rio Protocol still meant a territorial loss of 13,480 square km to the status quo line convened on in the Act of Lima.

⁸ M. Herz, J. Pontes Nogueira, *Ecuador vs. Peru*, cit., p. 35.

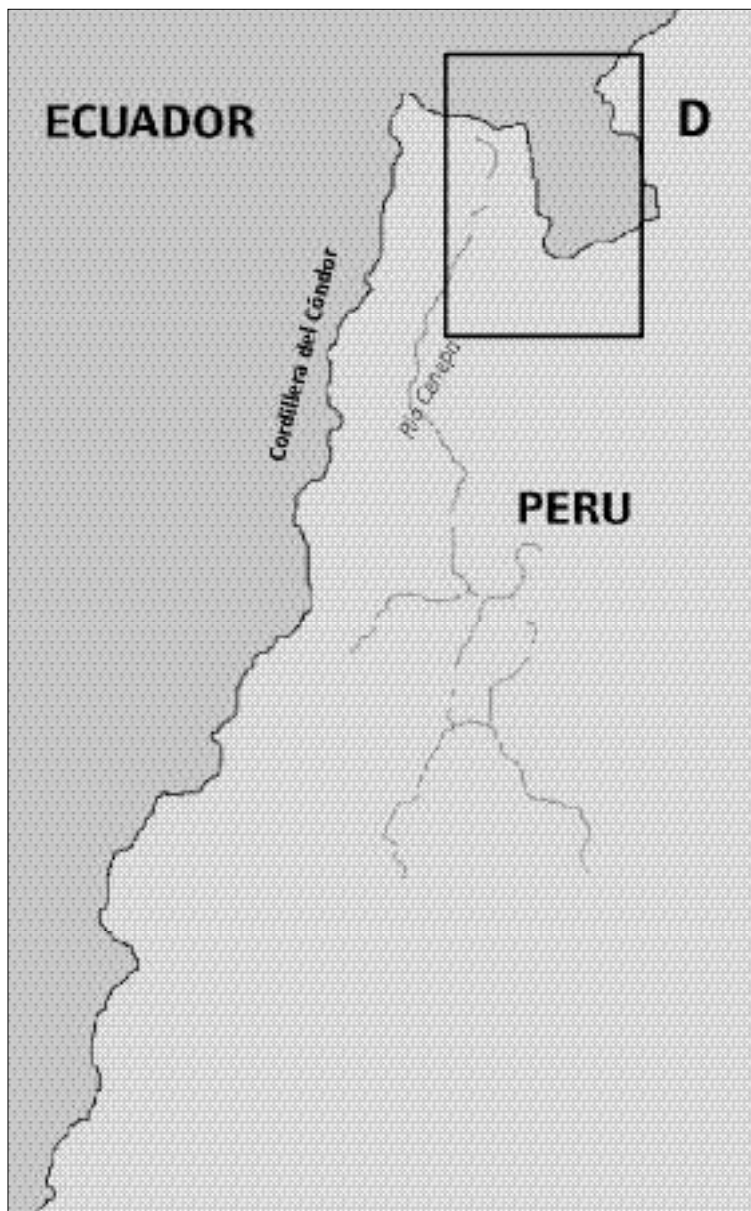
⁹ J. Griesse, R. Ginestet Menke, J. Paffenholz, B. Thomsen, *Entre Panas y Patas*, cit., pp. 22-23.

¹⁰ M. Herz, J. Pontes Nogueira, *Ecuador vs. Peru*, cit., p. 35.

¹¹ L.R. Einaudi, *The Ecuador-Peru Peace Process*, in C.A. Crocker, F. Osler Hampson, P. Aall (eds.), *Herding Cats*, Washington, United States Institute of Peace, 1999, p. 410.

soldiers existed, and Peru was obliged to build and run a road from Ecuador to Twiniza. Furthermore, Ecuador got access to Peru's Amazon tributaries and economic co-operation was convened on in the region between the two countries¹² (see Maps 3 and 4).

Map 3: It shows the most disputed area of the conflict East of the Cordillera del Condor.



¹² M. Herz, J. Pontes Nogueira, *Ecuador vs. Peru*, cit., pp. 61-63.

Map 4: It shows the bi-national nature parks and the area of Twiniza (written «Tiwiniza» in the map) within the marked sector of Map 4 (source of Maps 1-4: www.adonde.com/historia/1999_peru_ecuador.htm).



2. The Mediation Process, Its «Hidden Mediators» and Their Theories

It is definitely a difficult task to define exactly which factors made it possible to gain peace between the two countries in 1998. Among others, one factor definitely was the assistance of the four guarantor states within the mediation process, while another factor was the presence of two Presidents, Jamil

Mahuad and Alberto Fujimori who were mature enough to direct the mediation process towards peace¹³.

Nevertheless, I would like to emphasise the role of two world-wide known mediators and peace workers who assisted in the Ecuador-Peru peace process, namely Johan Galtung and Roger Fisher.

a) Johan Galtung and the Transcend Method

Still before Jamil Mahuad became Ecuadorian President, Galtung proposed to Ecuador's former President Ballen (1992-1996) at a meeting in Guatemala to make a bi-national zone with a nature park out of the disputed zone in the Amazon rain forest. The same idea was presented to the Ecuadorian Ambassador in Geneva and a talk about it was organised at the Military Academy in Quito in June 1998, where Galtung had the possibility to speak in front of the very influential Ecuadorian military generals about his ideas about the border conflict. Finally, Ecuador suggested the idea of a bi-national zone with a nature park to Peru, which accepted the idea as such, but insisted in a fixed border¹⁴.

Galtung's ideas for this bi-national park went even further, as he proposed to create a condominium with both flags. He had also encouraged the demilitarisation of this area, the creation of camping facilities for the youth of both countries and the establishment of economic ones for joint ventures in the region. He even went further proposing the creation of an international zone with the flags of the UN and the Organisation of American States (OAS) and therefore forming a zone of peace with a compound for negotiating border and other disputes out of a former war zone. Maybe time still was not ready for such innovative ideas, but one must be content the concept of a bi-national nature park was realised¹⁵.

Galtung's ideas on the border conflict find their foundation in his theoretical framework of conflict resolution, the Transcend Method: according to Galtung and the Transcend Method a conflict is composed by three elements: attitude/assumptions, behaviour and contradiction, which form the so called «conflict triangle»¹⁶.

The contradiction is the issue the conflict is about, the existing or perceived incompatibility of goals. The element attitude/assumptions refers to the parties' perceptions and

¹³ D.S. Palmer, *Missed Opportunities and Misplaced Nationalism: Continuing Challenges to Multilateral Peacekeeping Efforts in the Peru-Ecuador Border Conflict*, in T.S. Montgomery (ed.), *Peacekeeping and Democratisation in the Western Hemisphere*, Miami, North South Center Press at the University of Miami, 2000, pp. 263-265.

¹⁴ J. Galtung, interview in «Stadtschlainging», 17 May 2004.

¹⁵ J. Galtung, in J. Galtung, C.G. Brand-Jacobsen, K. Frithjof, *Searching for Peace*, London, Pluto Press, 2002, pp. 264-265.

¹⁶ H. Miall, O. Ramsbotham, T. Woodhouse, *Contemporary Conflict Resolution. The Prevention, Management, and Transformation of Deadly Conflicts*, Cambridge, Polity Press, 1999, p. 14.

misperception of each other and of themselves. Here also stereotypes come into play which can be influenced by positive or – more likely in conflicts – negative feelings like fear, hatred or anger. The element behaviour consists in the actions taken by the parties dealing with the conflict situation. Such a behaviour can go from conciliation up to threats and violence.

According to Galtung, in order to resolve the conflict attitudes/assumptions, those elements must be transformed into empathy, the behaviour has to be non-violence and the contradiction has to be replaced by creativity¹⁷.

In the Ecuador-Peru peace process such a transformation definitely took place: the element behaviour was installed, as the diplomats and presidents of both countries started to talk with each other. Both parties got to know the viewpoints and interests of the other party which also opened the doors for creativity. Based on the interests and needs of both countries a creative solution was found to resolve the dispute about a piece of territory: a bi-national nature park was created, Twiniza became private Ecuadorian property on Peruvian territory and economic co-operation in the region was convened on. With this solution the conflict parties went beyond the mainstream. They created something new and changed the old structures of the conflict as new goals (common economic interests, environmental interests) they did not take into account before, came into play¹⁸. Non-violence in the form of the absence of direct violence¹⁹ was an element which supported the peace process, as violence causes irreversible damages and leaves traumas and wounds behind²⁰, which might impede conflict parties to find an agreement for a conflict situation.

b) Roger Fisher and the Harvard Concept

Also Roger Fisher's participation in the Ecuador-Peru border dispute cannot be neglected, as Jamil Mahuad, the Ecuadorian president who negotiated the Act of Brasilia, was a former student. Mahuad invited Fisher to Ecuador in 1998 in order to get advice before his talks with Peruvian president Fujimori. Fisher proposed to him to build up a working relationship with Fujimori and also «to have taken a photograph of the two men sitting side-by side, not look at each other or the camera,

¹⁷ *Ibidem*, p. 15.

¹⁸ J. Galtung, *Conflict Transformation by Peaceful Means (The Transcend Method)*, Geneva, United Nations, 2000.

¹⁹ Compare: *ibidem*. Galtung distinguishes between direct, structural and cultural violence.

²⁰ J. Galtung, *Cultural Peace: Some Characteristics. From a Culture of Violence to a Culture of Peace*, UNESCO, 1996, p. 84.

but looking at a writing pad on which they were both working». This photograph appeared on the front page of the next day's newspaper suggesting to the public and themselves that the presidents of both countries were working together in order to resolve the dispute²¹.

In Fisher's theoretical framework of negotiation and conflict resolution this suggestion can be deduced from his principle to «separate the people from the problem», which means that within a conflict the personal relationship should not be mixed up with the issue the conflict is about. Creating a working relationship definitely means that personal emotions shall be left outside the negotiation and sitting side-by-side psychologically serves this purpose.

In 1981 Roger Fisher and William Ury published the book *Getting to Yes* in which they name the major principles for the art of negotiation, which are also used for conflict resolution and which are known as the so called «Harvard Concept». Apart from the principle to «Separate people from the problem», three more major principles of the Harvard Concept are «Focus on interests, not positions», «Invent options for mutual gain» and «Insist on using objective criteria»²².

In the making of the Act of Brasilia, the final document which put an end to the Ecuador-Peru border dispute, all these principles were observed: in the case of Twiniza we can see that the positions of Ecuador and Peru were strictly contradictory. Both wanted to have total sovereignty over Twiniza. The solution that Ecuador got Twiniza as a private property respects the interests of both states, which lied under their contradictory positions. Ecuador wanted to save Twiniza as a monument for Ecuadorian visitors which became possible, but also Peru's interest to have a fixed boundary and to have Twiniza within its territory was respected.

Options for mutual gain were also invented within the peace treaty. Mutual economic co-operation in the disputed region helps the people of both countries. A bi-national nature park can be useful for the environments of both countries.

And, finally, the Act of Brasilia also used an objective criteria as a starting point for negotiation, namely the Rio Protocol, a former peace treaty between the two countries: its principles were taken as a guideline for the new peace treaty.

²¹ Source: www.franciscoingouville.com/cuentos_ingles.php, accessed on the 20th of June 2004.

²² R. Fisher, W. Ury, *Getting to Yes*, New York, Penguin Books, 1992³, p. 15.

3. Ecuador and Peru as an Example for Other Conflicts

There has not been any military confrontation between Ecuador and Peru since the peaceful settlement of the border dispute on October 26, 1998. Ever since, one cannot expect that both countries have become the best friends after nearly 200 years of border dispute. Contents in school books of both countries still teach the history of the border conflict in a very subjective way²³ and the opinions about the Act of Brasilia vary in both countries from grateful acceptance to total rejection²⁴. Nevertheless, as history has shown that it can take decades until former enemies become friends, it can be said that the fact that peace prevails now between Ecuador and Peru represents a big success story of modern conflict resolution. What are the lessons to be learnt for other conflicts?

First of all, this example shows that if the principles and the techniques of conflict resolution are put into practise, there is a serious possibility to find a peaceful solution for a conflict. Definitely, every conflict and situation is different and I am convinced that «putting into practise a conflict theory» sounds too easy and simple-minded reasoning for complex and concrete conflict situation, but these theories should nevertheless be consulted in case of need and difficulties in resolving a conflict.

Secondly, the Act of Brasilia contains very interesting elements dealing with sovereignty: a bi-national nature park with a frontier freely transitable by native communities was created (even a bi-national condominium without a frontier was considered). As well, the private property construction for Twiniza and the access for Ecuador to the Amazon tributaries are something new and innovative.

In many countries and regions all over the world conflicts exist and wars are fought, because ethnicities of a country want sovereignty and independence or at least autonomy over a certain region. The Kosovo crisis is maybe the most dramatic example for that in Europe within the last years, but also the very actual Basque claim for more independence from Spain has to be taken into account here. It seems that the classic concepts of statehood and state sovereignty are inappropriate for many state realities, especially as we are living in a globalised world. They are causing conflicts and wars. To avoid

²³ J.C. Jaramillo Sevilla, *La historia de limites en los libros de texto del Ecuador: Analisis de contenido categorial o tematico*, available at www.dlh.lahora.com.ec/paginas/debate/paginas/debate885.htm, accessed on 20 June 2004, and J. Griesse, R. Ginestet Menke, J. Paffenholz, B. Thomsen, *Entre Panas y Patas*, cit..

²⁴ J. Griesse, R. Ginestet Menke, J. Paffenholz, B. Thomsen, *Entre Panas y Patas*, cit.

new conflicts and wars, new paths have to be pursued. The ideas used to resolve the Ecuador Peru border dispute can serve as an example. Some European conflict situations could be addressed in a useful way by taking the resolution of the presented South American conflict as an advice and guideline.

a) Kosovo Conflict

I am aware that the Kosovo conflict is a inner-state conflict and the Ecuador Peru conflict an inter-state conflict. But still, both are conflicts about sovereignty in a piece of territory: the Kosovo Albanians want to have an independent state of Kosovo, while the Serbs see the Kosovo as a part of their country. How can this conflict be resolved taking the Ecuador Peru conflict as an example? How can sovereignty be interpreted in a more flexible way in Kosovo?

One possibility is the creation of a transnational territory. According to Mascia and Papisca, two necessary elements for the creation of a transnational territory are the presence of an international authority guaranteeing especially the territorial autonomy and the presence of civil society promoting the inter-cultural aspects of the region²⁵. The UN could be the international authority in charge in Kosovo, but in full awareness that it has to fulfil this duty interfering only where necessary for the fulfilment of the human rights of all ethnic groups in the state sovereignty and autonomy of both Serbs and Kosovo Albanians. A possible justification and explication for the proposed interference with state sovereignty is the UNESCO concept of «world heritage» used throughout the world to protect cultural sights and monuments. *Mutatis mutandi*, the Kosovo region deserves such special protection due to its uniqueness as a focal point of European ethnicities and cultures that have to be preserved²⁶.

This is just one possibility to resolve the conflict. Maybe it is not feasible today, but maybe tomorrow.

But Kosovo could also become independent from Serbia. In that case, the minority rights of the Serbs living in Kosovo have to be observed scrupulously, which could also be the task of an international organisation helped by the civil society. One reason why Serbia is totally against independence of Kosovo, is that one of the most historic places for the Serbs, the so-called «black birds' field» lies within Kosovo. This is where Serbia had

²⁵ M. Mascia, A. Papisca, *Autodeterminazione, diritti umani e diritti dei popoli, diritti delle minoranze, territori transnazionali*, in «Pace diritti dell'uomo, diritti dei popoli», a. V, n. 3, 1991, p. 103.

²⁶ These ideas were presented in a document which was drafted in Padua at the end of a seminar on the situation on the Balkans on 13 April 1999 with the participation of Professors Mariarosa Dalla Costa, Giuliano Ferrari Bravo, Marco Mascia, Enzo Pace, Antonio Papisca and several students.

a famous battle in 1389 against the Ottomans which became a myth and a symbol of Serbian self-esteem. To me, this «black birds' field» is somehow similar to the situation about Twiniza in the Ecuador Peru conflict. In an independent Kosovo this «black bird's field» could also figure as private Serbian property or as a UNESCO world heritage site to give some ideas.

b) Other Conflicts

The number of conflicts where state sovereignty could be re-interpreted to resolve a conflict are numerous. According to Galtung the Basque country, for instance, could become a Basque entity without internal border but with an own Parliament. In this Parliament Spanish and French Assemblies could assure their interests with a vet-right concerning their patrimony²⁷.

Maybe the installation of a transnational territory in the region, where Armenians have become settled on the former land of Azeris, could resolve the conflict between Armenia and Azerbaijan. And there are many other similar conflicts: Corsica, Cyprus, etc.

Not to be misunderstood, more than these ideas are necessary to fully resolve a conflict: psychological work, diplomacy, mediation, reconciliation and so on. This text is not an holistic approach to conflict resolution, but presents one input, one detail for a successful mediation process.

4. Conclusions

The territorial form of statehood, which divides the political powers through fixed borders, was the paradigm of the last centuries. Wars were fought and states were shaped, in which an exclusive power of sovereignty was exercised by governments, dictators, kings, etc. In the 20th century this concept has started to be challenged. A visible proof of that is definitely the European Union, in which the member states have transferred parts of their sovereignty to European Union organs.

We live in a world of 200 states, but of 2,000 nations, ethnicities, peoples. Only about 20 states exist, where the national borders define exactly the territory inhabited by one nation²⁸. This situation represents a high potential for conflicts

²⁷ J. Galtung, in J. Galtung, C.G. Brand-Jacobsen, K. Frithjof, *Searching for Peace*, cit., pp. 284-285.

²⁸ C.G. Brand-Jacobsen, K. Frithjof, in *ibidem*.

and for human rights violations (like the right to self-determination). As history has shown these situations often lead to wars and violence. The example of Ecuador and Peru shows that – at the end – another way, a peaceful way is possible. We also have the theory and the expertise – in this case the Transcend Method and the Harvard Concept. They «only» have to be applied.

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