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THE IDEOLOGISTS BEHIND THE IDEA OF A CONFEDERATION ON THE AMERICAN CONTINENT

[Los ideólogos que impulsaron la idea de Confederación en el Continente
 Americano]

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RESUMEN

Junto con el proceso emancipatorio de las colonias españolas y la creación de repúblicas constitucionales en el siglo XIX en América, encontramos ideas relativas a la formación de una confederación de Estados independientes. Es Francisco de Miranda, quien inspira a generaciones con una visión global de América y una gran nación desde el río Mississippi hasta el Cabo de Hornos. En Chile, Juan Egaña plantea un congreso anfictiónico en la región, delimitando las funciones y competencias que los gobiernos deben otorgar, ideas que décadas más tarde son defendidas por Andrés Bello en *El Araucano*. La piedra angular es el Libertador Simón Bolívar, quien propone concretamente el Congreso de Panamá en 1824, un tratado con un órgano supranacional único en su especie hasta ese entonces en el continente. Panamá a pesar de haber sido un fracaso desde el punto de vista de sus ratificaciones, marca el inicio del multilateralismo, con conferencias que permiten la germinación de originales principios jurídicos. Las ideas de confederación son enmarcadas por el jurista Alejandro Álvarez bajo la doctrina Egaña-Bolívar, la que es parte fundante de la llamada Escuela Americana de Derecho Internacional.

ABSTRACT

Parallel to the emancipatory process of the Spanish colonies and creation of constitutional republics in the Americas in 19th century, ideas about a confederation of independent states were forming. The forerunner, Francisco de Miranda, was inspiring generations with his global vision of the new nations and the creation of a great state from the Mississippi River to Cape Horn. In Chile, Juan Egaña raised the need for an American Union through an amphictyonic congress, with national governments defining its functions and powers. Decades later, the same ideas continued to be supported by Andrés Bello in Chile. The cornerstone is undoubtedly Simón Bolívar, who organized the Panama Congress of 1824, and thanks to his unmatched leadership, achieved a multilateral treaty with a supranational body, a unique feat in the continent at that time. Despite being considered a failure regarding the lack of subsequent ratifications, the Panama Congress did mark the beginning of intermittent international conferences that allowed for the fostering of original international legal principles in the region. The ideas of confederation are framed by the jurist, Alejandro Álvarez, in the "Egaña-Bolívar" Doctrine, which is a founding part of the so-called American School of International Law.

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KEY WORDS

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INTRODUCTION¹

The compelling desires for freedom of the colonies on the American continent, were accompanied with ideas of union in the 19th Century. The proposals to build a confederation were a result of the process of self-organization and independence.

In 1790, Venezuelan revolutionary, Francisco de Miranda, drafted a constitutional project that included for the first time, the idea of building a “Great State” from the Mississippi River to Cape Horn². Miranda, known as the Precursor of the independence of the Latin America³, disseminated a global view about the future of the continent which were followed by generations⁴.

From 1810 onwards, Juan Egaña in Chile emphasized the importance of achieving a supranational body in order to design a common defence plan. He proposed a congress with representatives from member states, and the formation of an Amphictyonic confederation. Egaña’s key contributions related to the competencies and functions associated with this confederation. Three decades later, Andrés Bello expressed support for these confederate ideas in the Chilean journal “*El Araucano*”. However, fourteen years passed before Simón Bolívar brought together the postulates of Miranda and Egaña, calling for the first multilateral treaty on the region, at the Amphictyonic Congress of Panama in 1826. The organization of the Congress was a result of his unrivalled influence and authority as a political and military leader in the independence of South America. Despite the lack of ratifications of the Treaty of Union, League and Perpetual Confederation, the Congress of Panama marked the beginning of international conferences during the 19th and 20th Centuries, fostering the emergence of new rules at an international level. The jurist, Alejandro Álvarez, highlighted the importance of the continental

¹ The work presented is a summarized extract from a broader doctoral research still in progress.

² GIL FORTOUL, José, *Historia constitucional de Venezuela* (Berlin, 1907), I, p. 96.

³ BOHÓRQUEZ-MORÁN, Carmen L., *Francisco de Miranda, Précurseur des indépendances de l’Amérique latine* (Paris, 1998), p. 13.

⁴ According to Salcedo, the beginning of a vision of a unified Latin America starts with Francisco de Miranda: “Pero lo que más sorprende en la historia del pensamiento es comprobar que [...] no hubiera aparecido en nadie ni en lugar alguno, la idea de América como unidad [...]. En vano se busca un concepto claro y total de América en el largo período de la dominación colonial antes de Miranda. Tampoco, hasta ahora, se lo encontró en los aborígenes [...]. Paulatinamente tomó España noticia de la vastedad continental, a la que fue asimilando, sin prisa, bajo la modalidad de un montón de pedazos: las Indias, las islas, los reinos, las provincias, las tierras, los dominios [...], siempre en plural [...]. Miranda es el primero que logra la perspectiva justa, la visión íntegra. Exacta.”; See SALCEDO-BASTARDO, J. L.; PÉREZ VILLA, Manuel; RODRÍGUEZ DE ALONSO, Josefina, *Francisco de Miranda, América espera* (Caracas, 1982), pp. XV f.

attempts at seeking peace, and the idea of a confederation in the “Bolívar-Egaña Doctrine”, shaping the foundational principles of the unique American school of international law⁵. The following paragraphs will analyse the South American ideologists who ignited the idea of multilateralism on the Americas.

I. THE GREAT STATE OF FRANCISCO DE MIRANDA

Francisco de Miranda (1750-1816) was born in Caracas, Venezuela, and at aged 17, travelled to Spain to serve in the royal army. He increasingly became an important military figure, serving in the wars of independence in the United States⁶. His time in North America inspired him in the emancipatory project of the all Spanish colonies in South America⁷.

Miranda tried to persuade Great Britain to provide resources for his project in exchange for large commercial advantages in addition to dismantling trading restrictions imposed by Spain⁸. He maintained the attention of Prime Minister William Pitt (the Younger) thanks to his vast military knowledge of the American continent⁹. The Precursor delivered a proposal on 5th March 1790, in which he planned to build a “Great State” or “American Empire”, from the Mississippi River to Cape Horn covering all Spanish colonial territories in America, naming it “Colombo” or, alternatively, “Colombia”¹⁰.

Miranda’s original proposal to Pitt was a government model inspired by the British constitutional monarchy, with a bicameral system; one democratically elected chamber and another with members designated by an emperor or a hereditary Inca monarch¹¹. Installing a monarchy on the American continent was strategically aimed to fit with English preferences, although were contrary to the revolutionary republican ideals that were playing out in France¹². Nevertheless, Pitt did not address Miranda’s proposal seriously, and he left England before his plans materialised. In 1799 he returned to London and reactivated his negotiations,

⁵ CASTAÑO ZULUAGA, Luis Ociel, *Revoluciones de independencia, derecho de gentes, derecho internacional y panamericanismo: 1808-1830*, in *Revista Académica de la Facultad de Derecho de la Universidad La Salle*, 31/7 (2018), p. 229.

⁶ BOHÓRQUEZ-MORÁN, Carmen L., cit. (n. 3), pp. 21-96, 126-138, 256 f.

⁷ MARTÍNEZ HOYOS, Francisco, *Francisco de Miranda el eterno revolucionario* (Barcelona, 2012), p. 40 f., 184.

⁸ See BOHÓRQUEZ-MORÁN, Carmen L., cit. (n. 3), pp. 130, 164; GIL FORTOUL, José, cit. (n. 2), p. 102.

⁹ Miranda as many others came to London seeking economic support to achieve independence, for example, in 1810, Simón Bolívar and Andrés Bello advocated for the emancipation of Venezuela.

¹⁰ Letter from Francisco de Miranda of 30th September 1799, in which includes an extract from a letter to William Pitt in 1791 and he refers to previous negotiations in 1790. He stresses that his main objective is liberty and independence for South America and that there would be advantages to England in supporting this; See THE NATIONAL ARCHIVES, *Public Records*, Folios 352-355, Reference No. HO 42/48/159, pp. 348-353; BOHÓRQUEZ-MORÁN, Carmen L., cit. (n. 3), pp. 138 ff.

¹¹ GIL FORTOUL, José, cit. (n. 2), pp. 96 ff.; BOHÓRQUEZ-MORÁN, Carmen L., cit. (n. 3), p. 146.

¹² MARTÍNEZ HOYOS, Francisco, cit. (n. 7), p. 15.

as well started conversations with the United States. He obtained the necessary resources to equip a corvette, “*Leander*”, and assemble a humble crew, which finally left New York in direction of Ocumare, Venezuela on 2nd February of 1806¹³. In one year, the expedition lost all battles against Spain. The emancipation plan did not get the expected reception from the local inhabitants of the colonies. Creoles, indigenous peoples and slaves did not join Miranda in his revolt against the Spaniards. Historians give several reasons for this fact. First, British Crown backing of the expedition had a negative impact on gathering support: inhabitants were afraid that achieving liberty signified a handover of power from the Spanish to the British monarchy. The second reason was ideological; creole inhabitants at that time did not feel the need for independence.

Schlüter describes the independence of the colonies as a conjectural phenomenon within a macro process of emancipation, which was lengthy and implied leaving behind traditions and accepting modernity; an ideological change¹⁴. Furthermore, Miranda had been absent from Caracas for many decades, and was disconnected from the colonial aristocracy. In addition, he was highly unpopular among colonial inhabitants which also hindered his cause¹⁵. The liberation of South America had so far failed. Miranda’s ideal was a rational and philosophical aim, however, it was completely divorced from key political events, thus rendering it inopportune¹⁶. Despite Miranda’s first defeat to emancipate the colonies, he continued working on his project from London, spreading the ideas to other creoles in Europe, such as his compatriot Simón Bolívar and other subsequent leaders of the revolutions in Argentina, Chile and Peru against Spain, namely, José de San Martín and Bernardo O’Higgins.

Creole inhabitants in the Spanish colonies profited greatly from commerce and agriculture especially from the second half of the 18th Century and onwards. This meant they were in a stronger economic position, allowing them to strengthen their ties with the metropolis and Europe in general. Cities like London and Cadiz were important meeting points where ideas could easily be exchanged between these creoles from different colonies of the southern continent¹⁷.

The influence of Miranda and the collaboration between these future Liberators bore fruit. Bolívar, San Martín and O’Higgins committed to emancipation and the possibility of achieving an American alliance¹⁸. They organized expeditions across South America, definitively expelling Spain from the territory¹⁹. All

¹³ GIL FORTOUL, José, cit. (n. 2), p. 98.

¹⁴ SCHLÜTER, Heinz, *El proceso de la independencia política de Chile (1808-1823), aproximaciones a una realidad amplia y compleja, documentos y estudios históricos* (Münster, 2012), p. 435.

¹⁵ GIL FORTOUL, José, cit. (n. 2), p. 103; MARTÍNEZ HOYOS, Francisco, cit. (n. 7), p. 68.

¹⁶ BOHÓRQUEZ-MORÁN, Carmen L., cit. (n. 3), p. 163.

¹⁷ AMUNÁTEGUI SOLAR, Domingo, *Jénesis (sic) de la Independencia de Chile*, in *Anales de la Universidad de Chile*, 2/2 (1924), pp. 1152 -1178.

¹⁸ Some historians affirm the fact of the existence of a secret League in London, created by Miranda, where the emancipatory project was broadened to encompass ideas of an alliance among Latin American members. The fact is discussed.

¹⁹ SCHLÜTER, Heinz, cit. (n. 14), p. 440.

of them shared the aspiration of their Precursor and his global concept of an American union.

Miranda's original idea of an Inca monarchy evolved over the years with the experience that he acquired, observing the different systems in other European countries²⁰. He participated actively in the French Revolutionary Wars, as a General in the French Revolutionary Army. In 1808 Miranda drafted another constitutional project establishing a "creole" federal government under the basis of the existing figure of the representatives of *cabildos*, leaving aside the initial monarchical proposal²¹.

In 1810 Miranda returned to Caracas to join Simón Bolívar in the battles for independence and the emergence of the First Republic of Venezuela. He was elected to Congress and as General, brought all his military knowledge and experience gained in the French revolutionary army. He appointed himself as an agent of the American continent to achieve its independence, a personal mission which he devoted the rest of his life to. Francisco de Miranda planted the seed for emancipation in the Spanish American colonies and the union of the new republics, inspiring future generations of Latin American leaders²².

II. JUAN EGAÑA AND THE AMPHICTYONIC CONFEDERATION

Juan Egaña (1768-1836) was born in Lima, Peru, but moved permanently to Chile, when he was 21 years old. Egaña stood out as a Chilean Congressman, jurist, and author of different projects regarding the internal organization of Chile. He was involved in the installation of many of the country's state-building institutions, contributing to the consolidation of independence. His main works included the draft constitutions of 1811, 1813 and 1827; and the official constitution of 1823²³.

The jurist argued that the importance of building a union within the American continent was to act as a balance to the European powers²⁴. He linked the concept of achieving of happiness among the people of Chile and the continent as a whole, with the idea of peaceful internal and external relations. He highlighted the principle of freedom in the context of self-determination and independence from Spain.

²⁰ Nevertheless, the idea of an Inca Monarch continues after the proposal to Pitt. In 1816, Manuel Belgrano of Argentina also aspired to unify the colonies of South America under an Inca monarch in the Congress of Tucuman. The Inca Monarchy of Tucuman is the subject of an upcoming publication from the author.

²¹ "Cabildo" is a Hispanic American government institution coming from the colonial time, which mean principally a meeting. "Cabildo Abierto" or open cabildo refers to a town hall meeting, which would have a broad representation of the population.

²² MITRE, Bartolomé, *Historia de San Martín y de la emancipación Sudamericana* (Buenos Aires, 1952), pp. 36, 73.

²³ INFANTE MARTIN, Javier, *La Suiza de América. Antiguo Régimen e Ilustración en Juan Egaña*, in *Revista Historia del Derecho*, 50 (Buenos Aires, 2015), pp. 58 f.

²⁴ EGAÑA, Juan, *Proyecto de una Constitución para el Estado de Chile* (Santiago de Chile, 1813), p. 3.

The French invasion of Spain with the troops of Napoleon and the imprisonment of Ferdinand VII, left the Spanish colonies in America acephalous, Chile was no exception. Following the successful example of *cabildos* in Buenos Aires culminating on 25th May of 1810. The Southern Cone started to organise itself to overcome this status of anarchy²⁵. In preparation for the Chilean open *cabildo* of September 1810, the public was invited to submit written or oral recommendations on the needs, public security and happiness of the state. Egaña, accepting the invitation, sent a government plan addressed to the President of the Government Assembly²⁶. His proposal included a chapter on foreign policy, in which he recommended to immediately establish diplomatic relations with other American, or at least with other South American governments, and have representatives prepared to attend a provisional congress in case Napoleon annexed Spain. Congress should establish a common foreign policy for the continent as a whole²⁷. He was afraid that the fragmentation of the territory into small divisions made it more vulnerable to invasion²⁸. The idea was to achieve a common defence policy to avoid European occupation. This continental defence policy was to be supported by a continental army, the cost of which would be shared by all nations. Egaña argued in his Government Plan that the army was the purview of the union, and also because the Chilean government did not have sufficient resources to finance one²⁹.

In the same year, Egaña drafted the Project for the General Union of the Spanish Colonies for their Defence and Security during the Imprisonment of Ferdinand VII. In this draft he outlined how Chile lacked resources to invest in territorial security and recommended transferring this function to the American Congress, thus permitting the Chilean government to focus more on internal matters. Although he expected the common defence plan to be specific to South America, he remained open to the possibility that Spanish colonies in Central and North America could also join.

Egaña shared the global perspective of Francisco de Miranda regarding the union of the colonies, yet disagreed on the notion of a unitary state. He envisaged member states creating a supranational body, which would also be in charge of resolving disputes among these member states. The association revolved around defence against Europe and protecting the newly found independence, in effect

²⁵ DONOSO ROJAS, Carlos, *La idea de nación en 1810*, in *Polis Revista Latinoamericana*, 35 (2006), pp. 20-23.

²⁶ *Ibid.*, p. 52.

²⁷ The term foreign must be understood as powers from other continents, mainly Europe.

²⁸ The original text in Spanish follow: “*Convendría que US. escribiese inmediatamente a los demás Gobiernos de América (aunque sea del Sur) para que estén prontos los diputados de las Cortes, á (sic) fin de que si sobreviene alguna desgracia en España formen en la hora, y en la parte acordada un congreso provisional, donde se establezca el orden de unión, y régimen exterior que debe guardarse entre las provincias de América, hasta las cortes generales. De otro modo la América se disuelve, hay mil disensiones civiles, y vienen á (sic) parar en ser presa de los extranjeros [...]*”, See EGAÑA Juan, *Plan de Gobierno*, in BARROS ARANA et al., *Colección de historiadores i (sic) de documentos relativos a la independencia de Chile* (Santiago de Chile, 1911), XIX, pp. 107 f.

²⁹ *Ibid.*, p. 109.

a defensive alliance. Egaña recommended Guayaquil as the meeting location if members were exclusively from South America; or Panama, if all Spanish colonies were participating³⁰.

Egaña drafted a constitution in 1811, modifying it in 1813, by including the Declaration of the Rights of the People of Chile as a preamble³¹. Article II of the Declaration prescribes that the people of Chile retain their right to exercise foreign relations until the formation of a general congress of the nation. The congress would have foreign relations under its remit in order to establish a general system of union and security. The concept of nation used by Egaña was broad in meaning and self-explanatory, denominating the Spanish people (in America), and solemnly declaring the will to be part of the general congress created under an equal and free basis. Article V requests the Chilean government to invite other governments to assist in the organization of the congress. Egaña suggested Ferdinand VII as the Chair, but also left open the possibility to congress to choose another candidate, as per Article III³².

Having developed his idea for a supranational organization, Egaña recommended in 1818 an Amphictyonic confederation³³. The governments of Santiago and Buenos Aires exchanged diplomatic notes, recognising the importance of achieving an American Union in the form of a congress or plan³⁴. The aim was to attain a common external defence strategy to avoid reconquest by Spain, but in addition, this union would be a balanced arbitrator created by heads of states³⁵. Egaña lost influence within the Chilean political sphere because his Constitution of 1823 was severely criticised, and his ideas about the confederation were derided as utopic and unrealistic. Indeed, Chilean representatives did not attend the Congress of Panama, organized by Simón Bolívar in 1824, and where Egaña's ideas materialized. The non-participation of Chile contravened the contractual obligation of the bilateral treaty with Gran Colombia³⁶. Although the idea of an American confederation was unpopular among Chilean society, Egaña's ideas were publicly supported by Andrés Bello in 1844. As a Venezuelan diplomat, Bello was sent to London in 1810 with Simón Bolívar on a mission to garner support for the Venezuelan revolution, especially as Bello was a close friend of Francisco de Miranda. After living in London for many years, he arrived in Chile in 1829 to serve at the Ministry of Treasury and subsequently at the Ministry of Foreign Affairs, 1834-1852³⁷. Bello was professor and rector of the University

³⁰ SILVA CASTRO, Raúl, *Juan Egaña, Precursor de la integración Americana*, in *Revista de Estudios Internacionales de la Universidad de Chile*, 3/2 (1968), pp. 389 f.

³¹ INFANTE MARTIN, Javier, cit. (n. 23), pp. 69-71; SILVA CASTRO, Raúl, cit. (n. 30), p. 392.

³² EGAÑA, Juan, *Proyecto*, cit. (n. 24), p. 6.

³³ SILVA CASTRO, Raúl, cit. (n. 30), pp. 387-399.

³⁴ DE LA REZA, Germán A., *Los proyectos confederales de Juan Egaña y la genealogía de un prejuicio*, in *Araucaria Revista Iberoamericana de Filosofía, Política y Humanidades*, 19/37 (2017), p. 459.

³⁵ SILVA CASTRO, Raúl, cit. (n. 30), pp. 389.

³⁶ The bilateral treaty with the Gran Colombia was a treaty of Union, League, and Perpetual Confederation.

³⁷ AMUNÁTEGUI, Miguel Luis, *Vida de don Andrés Bello* (Santiago de Chile, 1882), pp. 79

of Chile, and author of one of the most important Latin American manuals on international law in the 19th Century, *Principles of International Law*, of which there were four editions³⁸.

In 1844, two editions of the Chilean journal *El Araucano*, published an essay by Bello about the American Congress. He recognized that he was originally skeptical about the notion of a Congress, considering it a utopia for America. Nevertheless, he expressed his change of view, supporting the project and recommended Chile send plenipotentiaries to the second congress in Lima in 1847. Bello highlighted the unique opportunity in Lima to unify principles of international law and the cooperation of all member states in the preservation of peace. He mentioned the benefits of achieving coherence in the rules of private international law in the region and the use of international rivers, for example.³⁹ Thanks in part to Bello, Chile began to play a more active role in the following Congresses of American Union, as Egaña wished for, including being host country in 1856⁴⁰.

The ideas of Miranda were echoed in the extreme south of the American continent, giving legitimacy and confirming the Hispanic American aspiration. Egaña gave shape to the global view on the form of an Amphictyonic confederation, with Bello continuing to support these multilateral attempts.

III. SIMÓN BOLÍVAR AND THE CONGRESS OF PANAMA

Simón Bolívar (1793-1830), a liberal Venezuelan statesman, led the successful emancipation of the northern Spanish colonies of South America⁴¹. Bolívar was also the first to take initiative with concrete measures to implement the union of the American continent, an ideal shared by several supporters of American emancipation, as illustrated in previous paragraphs. He called for a multilateral treaty, and through his unrivalled influence and the authority he represented, achieved the Congress of Panama⁴².

On 19th April of 1810, the Venezuelan Declaration of Independence was ratified by the Supreme Junta of Caracas, and its second aim after independence, was the formation of a confederation of the Hispano American countries⁴³.

In 1815, Bolívar wrote an important essay in the famously known “*Letter from Jamaica*” in response to businessman, Henry Cullen, extensively developing his

ff.; 324; 362; 491.

³⁸ PLAZA A., Eduardo, *Andrés Bello, Derecho Internacional, Principios de Derecho Internacional y escritos complementarios*, Ministerio de Educación (Caracas, 1954), I, pp. LXX f.

³⁹ The complete document was published in *El Araucano* in 1844, n. 742 in 8th November and 743 in 15th November, in PLAZA A., Eduardo, cit. (n. 38), pp. 641 ff.

⁴⁰ DE LA REZA, Germán A., *Los proyectos confederales*, cit. (n. 34), pp. 467-471.

⁴¹ SHELTON, Dinah L.; CAROZZA, Paolo G., *Regional Protection of Human Rights* (2nd ed., Oxford, 2013), p. 53; WALLERSTEIN, Immanuel, *The Second Era of Great Expansion of the Capitalist World-Economy 1730-1840* (California, 2011), III, p. 254.

⁴² ÁLVAREZ, Alejandro, *The Monroe Doctrine, its importance in the international life of the States of the New World* (Washington, 1924), p. 12.

⁴³ DE LA REZA, Germán A., *The formative platform of the Congress of Panama (1810-1826), The Pan-American conjecture revisited*, in *Revista Brasileira de Política Internacional*, 56/1 (2013), p. 6.

concept of a confederation of the Spanish American countries through the prism of the emancipation process at the time on the continent⁴⁴. Bolívar shared Egaña's aims of seeking happiness, justice, liberty and equality for the people. They also agreed on the formation of one nation on the American continent encompassing only the Spanish American countries, on the basis of a common language, religion, origin and customs. He analysed the alternative forms of government possibilities; a republic, a federal system, or a constitutional monarchy as in England⁴⁵. He proposed a confederation of independent states, considering further integration was not an option. Bolívar had already expressed desires in 1815 for a congress with representatives from all countries to discuss peace and war. He continued with the name Miranda chose for the American nation, Colombia⁴⁶. Bolívar quoted in his letter Montesquieu, Bartolomé de las Casas and abbé de Saint-Pierre, reliving the origin and inspiration of his ideas⁴⁷.

The creation of Great Colombia in 1819 with the Congress of Angostura promoted by Bolívar, was a partial union between three South American countries: Venezuela, "Republic of New Granada" Granada (today Colombia) and Quito (Ecuador). This project had similarities with Miranda's dream of founding "Colombia", the difference being that only some, not all, Spanish colonies on the continent came together. Bolívar sought to enlarge the bounds of Great Colombia with other Latin American countries, signing bilateral Treaties of Union, League, and Perpetual Confederation, for example with Chile as mentioned previously⁴⁸. Great Colombia's Treaties of Union, which held ideas on forming a society of brotherly nations to maintain independence from Spain, paved the way for the Congress of Panama of 1826.

Between 1824 and 1825, Bolívar invited Governments to meet in Panama. In 1826 the Congress, also known as the Amphictyonic Congress, took place with the representation of Great Colombia, Mexico, Peru, the United Provinces of Central America (Guatemala, El Salvador, Honduras, Nicaragua, and Costa Rica), Great Britain, and the Netherlands. Absent countries were: United Provinces of the Rio de la Plata. (Argentina), Bolivia, Chile and Brazil⁴⁹. The United States was invited by the Vice-president of Great Colombia, against Bolívar's judgement. The US delegates arrived late to the Congress and were not given powers to conclude any treaty⁵⁰.

⁴⁴ COMISIÓN PRESIDENCIAL, *Conmemoración del bicentenario de la Carta de Jamaica, Simón Bolívar, Carta de Jamaica, 1815-2015* (Venezuela, 2015), pp. 9 ff.

⁴⁵ ESCALA, Javier, *La Carta de Jamaica, Análisis y vigencia en el marco de su bicentenario*, in Centro Nacional de Historia, *La Carta de Jamaica en el Siglo XXI, Aproximaciones críticas a un documento bicentenario* (Caracas, 2016), p. 24.

⁴⁶ BOLÍVAR, Simón, *Carta de Jamaica* (1815), pp. 16-24.

⁴⁷ ESCALA, Javier, cit. (n. 45), p. 25.

⁴⁸ For example, with: Peru in June 1822, Chile in October 1822, United Provinces of the Rio de Plata in March 1823, Mexico in October 1823, and United Provinces of Central America in 1825; See DE LA REZA, Germán A., *Documentos sobre el Congreso Anfictiónico de Panamá* (Venezuela, 2010), pp. 15-34.

⁴⁹ DE LA REZA, Germán A., *Los proyectos confederales*, cit. (n. 34), p. 471 (footnote).

⁵⁰ CASTAÑO ZULUAGA, Luis Ociel, cit. (n. 5), p. 230; DE LA REZA, Germán A., *Documentos*,

The resulting Treaty of Union, League, and Perpetual Confederation of 1826 did not acquire the ratifications expected, and the Congress of Panama failed in this aspect. The Chilean jurist, Alejandro Álvarez, attributes this failure of the Congress of Panama to the geography of the American continent and the major distances between the capitals as one factor⁵¹. Another reason was the internal instability of the New World countries at that moment. The abdication of the King of Spain had triggered the start of the independence process and end of the Spanish administration in the colonies, creating a power vacuum which played out as civil war across the new nations. This scenario implied the need to develop a system of government adapted to each state. The aspirations in all states were to overcome internal problems and continue with state-building, marginalizing any possibility to invest resources in the creation of a supranational body.

The Congress of Panama represents the first consolidated attempt to create a society of nations under modern international law, a feat that occurred one century later with the League of Nations which acquired universal character. The Covenant of the League of Nations of 1919 shares similarities in several articles with the Treaty of Union, League, and Perpetual Confederation of 1826 –the result of the Congress of Panama–, both follow the same ideal in the field of international law⁵². These two instruments aimed to secure peace between states through the establishment of an assembly of plenipotentiaries and the pacific resolution of conflicts⁵³. The recognition of territorial integrity, the independence of the states and the principle of sovereignty of the signatories outlined by Bolívar, were also incorporated in Article X of the Covenant of the League of Nations⁵⁴. In following the ideas of Simón Bolívar, the New World countries were pioneers in the application of these original juridical principles, which only one century later were recognized in Europe as hard truths⁵⁵.

After the Congress of Panama, the confederation still tried to materialize, with Congresses of American Union in 1847-1848 in Lima; in 1856 in Santiago de Chile; and in 1864-1865 in Lima again⁵⁶. All of them incurred the same problem: lack of ratifications. A uniform doctrine did emerge however, representing the position of the American Continent on international matters, addressing common interests and challenges of the New World post-independence⁵⁷.

The Congress of Panama marked the beginning of a series of international conferences in the region, namely first the Union of American Republics, followed

cit. (n. 48), pp. XII f.

⁵¹ ALVAREZ, Alejandro, *Le Droit International Nouveau, dans ses rapport avec la vie actuelle des peuples* (Paris, 1959), p. 83.

⁵² Treaty of Union, League, and Perpetual Confederation between the Republics of Colombia, Central America, Perú, and the United Mexican States, July 15, 1826.

⁵³ YEPES, Jesús María, *La Contribution de L'Amérique Latine au Développement du Droit International Public et Privé*, in *Recueil des Cours*, II (1930), 23, Paris, pp. 701 ff.

⁵⁴ *Ibid.*, p. 704.

⁵⁵ *Ibid.*, pp. 707; ALVAREZ, Alejandro, *Le Droit International*, cit. (n. 51), p. 83.

⁵⁶ DE LA REZA, Germán A., *Documentos*, cit. (n. 48), pp. 272 ff.

⁵⁷ ALVAREZ, Alejandro, *Dominant Legal Influences of the Second Half of the Century*, in *The Progress of Continental law in the Nineteenth Century* (Boston, 1918), p. 32.

by the Pan-American Union and the Organization of American States, the latter is still in existence today.

IV. CONCLUSION WITH THOUGHTS FROM ALEJANDRO ÁLVAREZ ON THE EGAÑA-BOLÍVAR DOCTRINE

Regarding the “Bolívar Doctrine” -as several publicists referred to it- on the idea of a confederation, the jurist, Alejandro Álvarez (1868–1960), prefers to call it the “Egaña-Bolívar Doctrine”, to highlight contributions from Juan Egaña. He also remarks that the doctrine has two different stages: the first from 1810 to 1815; and the second is post 1815.

The first stage of the doctrine is summarised as follows: *“The Spanish-American colonies, in concert and mutually aiding each other, should free themselves from the mother country by force of arms, forming independent, sovereign States with a liberal, democratic, and constitutional government. Moreover, the new States should form a confederation with common interests; those States should likewise be bound by close ties to the countries of Europe”* The doctrine is reformulated in the second stage as follows: *“The States of Latin America form an international society distinct from that of Europe; all the States must combine in a confederation, in order to proclaim their independence and to prevent the mother country or any other European State from oppressing them or standing in the way of their destinies. // In this confederation, moreover, adequate means must be provided for maintaining peace and settling disputes by arbitration. The relations between the confederated countries must be governed by principles of law in harmony with the new conditions and needs of those states”*⁵⁸.

The confederation idea is attached to the independence process, and according to Álvarez, one century later, it was bound to maintaining this independence. After 1815, the initial aim of achieving a defence union to ensure independence, became more complex since threats could come from conflicts within the continent. To prevent this second scenario, a supranational body for dispute settlement and arbitration was added.

The project to achieve a confederation in Hispanic America in the 19th Century was ambitious, particularly when the emerging states were faced with internal instability at that time. Nevertheless, two incipient ideas were developed; a sense of solidarity among the states of the American continent to achieve happiness, justice, liberty and equality for the people, and the idea of international organization, that allowed the fostering of original international legal principles in the region. The latter permitted more concrete achievements in the 20th Century in the spheres of public and private international law and shaped international law on the American continent.

Francisco de Miranda was the Precursor of the idea of a Great State, whilst Juan Egaña elaborated on and designed a confederation system and supranational body for arbitration, contributions which were furthered by Andrés Bello after the Congress of Panama. Simón Bolívar was the cornerstone of these union aspira-

⁵⁸ ÁLVAREZ, Alejandro, *The Monroe Doctrine*, cit. (n. 42), pp. 8-9.

tions because of his insuperable efforts to attempt to convert the confederation into a reality.

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