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**REPUBLICAN IDEAS AND THE SHAPING OF POST-
INDEPENDENCE LIBERALISM IN SPANISH AMERICA**

Abstract

This essay proposes a more complex understanding of the different ideological currents in nineteenth-century Spanish America, which would enable a more meaningful interpretation of the factional conflicts that characterized the region. Specifically, the essay analyzes in detail a republican institution that was used widely in Spanish America in the nineteenth century to limit the power of the government: the Neutral Power, as Benjamin Constant called it.

Resumen

Este ensayo propone entender mejor las diferentes corrientes ideológicas y de pensamiento que se dieron durante el siglo XIX en Hispanoamérica para poder hacer una interpretación más significativa de los conflictos entre facciones que caracterizaron a la región. Específicamente, el ensayo analiza a detalle una institución republicana que se usó extensamente en Hispanoamérica durante el siglo XIX para limitar el poder del gobierno: el Poder Neutro, como lo llamó Benjamín Constant.

Republican Ideas and the Shaping of post-Independence Liberalism in Spanish America: Bolívar, Lucas Alamán, and the “Conservative Power” *

(...) The black hole of 1821-1857 is largely of our own making, a modern day perception more than a historical reality.

- Timothy Anna¹

Liberalism, Republicanism and the Nation

“It is obvious —wrote François Furet in 1971— that, starting with the French Revolution, every revolution, and above all the French Revolution itself, has tended to perceive itself as an absolute beginning, as ground zero of history, pregnant with all the future accomplishments contained in the universality of its principles. Thus it is particularly difficult for societies that claim a revolutionary ‘founding’, especially if it is relatively recent, to write their contemporary history.”²

Whether or not the Spanish American wars of Independence are, conceptually speaking, revolutions comparable to the French Revolution or, in general, the type of revolution that Furet was referring to, his assessment holds true for them. There very decidedly was a discourse of a new beginning, of a break with the past, of a founding of new societies in all of Spanish America after Independence.³ And even though this discourse was not the predominant one for the first fifty years after the wars, it has become dominant ever since liberalism adopted it in the second half of the nineteenth century.⁴ What this has meant is precisely what François Furet argues: it has been particularly difficult to write the history of Spanish America, especially when it comes to the first few decades after Independence.

There is no doubt that the wars of Independence are seen all over Spanish America as a founding moment, especially now. In Cuba, for example, after the fall of Communism and the loss of legitimacy of the 1917 Russian Revolution, there has

* I am grateful to the members of the Latin American History Workshop at the University of Chicago, and to my colleagues at the History Seminar at CIDE, who made comments on an early draft of this essay. I also wish to thank François Furet⁺ and Luis Castro Leiva⁺, to whom I dedicate this essay. Without their support and inspiration, but above all, without their friendship, this essay would not have been possible. Funding for the research of this essay was provided by Conacyt.

¹ Anna, “Demystifying...”, p. 120.

² Furet, *Interpreting the French Revolution*, p. 83. Although the book appeared in French in 1978, the essay that I am quoting from —which is part of the book— first appeared in 1971.

³ This is readily apparent in both Bolívar’s and Alamán’s works.

⁴ Cf., for example, Justo Sierra’s *Evolución Política del Pueblo Mexicano*.

been an ideological retrenchment from Marx and Lenin back to Martí and Bolívar. In Venezuela, Hugo Chávez has not only gone back to make Bolívar and bolivarianism the core of his rhetoric, but he has gone as far as to change the name of the country to República Bolivariana de Venezuela.

Mexico is maybe the only true exception to this—and I don't want to argue for Mexico's exceptionalism—but that is because the Mexican Revolution of 1910 has not lost its legitimacy. In fact, almost everyone in Mexico claims now to be the true heir of the Revolution: the *zapatistas* in Chiapas, the Frente Villista in Mexico City, the PRD, and of course the PRI. In other words, for Mexico the Revolution is still a "founding" moment to look back to, and like François Furet said also of the French: if the nineteenth century believed in the Republic, the twentieth—and now the twenty-first—believe in the Revolution.⁵

But what does this actually mean? To solve the historiographical problem of the French Revolution, to call it somehow, François Furet went back to Tocqueville. He argued that Tocqueville had been the only one to see the main flaw in the revolutionary discourse: namely, that there had not been such a radical break from the past, as the French revolutionaries would have us believe. In fact, Tocqueville argued that there were basic continuities between the Ancien Régime and the Revolution that could only be seen and properly appraised when one stepped back from the Revolution's perception of itself as *the* founding moment.⁶

I argue that we have to do something similar when we analyze not only the wars of Independence, but also the whole nineteenth century in Spanish America. Like I pointed out before, the supposed break from the past was not dominant in the revolutionary discourse during the first fifty years or so after Independence. In fact, that is readily apparent in the cases of Mexico and Peru, for example, in which it was part of the Creole officer corps that led the way to Independence. Not only did these officers tend to play an important part in politics in the new nations, but they also emphasized their commitment to maintain the continuity with the Spanish past.⁷

⁵ Furet, *Interpreting the French Revolution*, p. 5. This is, of course, because there is a "founding" event present in both the wars of Independence (the beginning of the Republic) and the Revolution (the beginning of a "new" society).

⁶ After following Tocqueville's lead, Furet encountered another problem: if there had not been a real break from the past, what was the Revolution all about then? Furet solved that problem recovering the work of another French historian, Augustin Cochin. It is out of the scope of this essay to go into the question of how Furet used Cochin's work to solve the problem for the French Revolution. I am not the first one, though, to follow Furet's lead regarding the history of Latin America. François-Xavier Guerra, for instance, followed Furet in his analysis of the Mexican Revolution and, to some extent, in his analysis of Spanish American Independence. Cf. Guerra's works listed in the bibliography.

⁷ In fact, that was what Iturbide's *Plan de Iguala* with its three warranties was all about. In the case of Mexico, the fact that the dispute between those who wanted September 16th (Hidalgo's revolt) and those who wanted September 27th (Iturbide's triumphant entry to Mexico City) to be the official date of Mexican independence continued all through the first half of the nineteenth century would also point to that.

They represented, precisely, the reaction to the revolutionary attempt to break from the past.

But by the second half of the nineteenth century, the supposed break became a salient feature of revolutionary discourse in Spanish America –and has remained so ever since.⁸ How did this happen? Timothy Anna has argued lately that it “is not some assumed total break [with the past] but a massive structural crisis in the transplanted societies of Spanish imperialism in America that provoked the emergence of a national project in each Latin American country”. If this is true, then how can we explain that even today Spanish Americans look back to the Independence period as *the* founding moment? Anna argues that it was actually the transition to republics what the “revolution” was all about in Latin America, because it is in that sense that the old (i. e. monarchy) gave way to the new (i. e. republicanism).⁹ In other words, if we follow his lead, we would have to conclude that even when the supposed total break from the past was part of the revolutionary discourse, the part of the latter that became dominant during the first half of the nineteenth century was republicanism. And indeed we can see that, for example, in Bolívar’s staunch republican discourse and ideals,¹⁰ or, in a concrete example, in the preamble of the Mexican Constitution of 1824 –in which there is no reference of an attempt to wash out everything Spanish, while there is an unambiguous commitment to republicanism, at least as a form of government:

Your representatives, once united in Congress, have brought the unanimous vote of the people, which was expressed with energy. The cry for a federal Republic was heard in all corners of the continent, and the vote for this form of government was so overwhelming that it was comparable only to the wish for independence. Your representatives did not have any doubts in this respect regarding what the nation wanted.¹¹

Not only did the representatives deem that a republic was what the “people” wanted, but they assumed that never would anyone else want it differently. In article 171

⁸ Again, in the case of Mexico the Mexican Revolution of 1910 is the other founding moment usually referred to. Cf. Hale, “Los mitos políticos...”. For the rest of Spanish America, cf. the essays by Geoffrey Hawthorn, Germán Carrera Damas and Luis Castro Leiva in Castro Leiva. *Usos y abusos*.

⁹ Cf. Anna, *Forging Mexico*, p. ix and ff.

¹⁰ These ideals are readily apparent in his address delivered at the inauguration of the Second National Congress of Venezuela in Angostura (February 15, 1819), for example. I discussed this idea extensively with Luis Castro Leiva. I have always found a source of inspiration in his work. Cf. his essay “The Dictatorship of Virtue or the Opulence of Commerce” listed on the bibliography on this topic.

¹¹ “Vuestros representantes, al congregarse en el salón de sus sesiones, han traído el voto de los pueblos expresado con simultaneidad y energía. La voz de República federada se hizo escuchar por todos los ángulos del continente, y el voto público por esta forma de gobierno llegó a explicarse con tanta generalidad y fuerza como se había pronunciado por la independencia. Vuestros diputados no tuvieron, pues, que dudar sobre lo que en este punto deseaba la nación”. Tena Ramírez, p. 163.

they decreed that no one could ever reform the articles of the constitution that established the liberty and independence of the Mexican nation, *its religion and its form of government*, the liberty of the press and the division of powers.¹² In other words, in 1824, people in Mexico, or so the Constituent Assembly said, wanted continuity as much as change –a Catholic republic.

Thus, there was, in fact, a republican discourse in which the supposed break from the past became a feature basically because monarchy was dead and republicanism was alive.¹³ Although it is undeniable that liberal ideology played an important part in the disruption and disintegration of colonial structures, in the first few years after Independence there was a rich and significant ideological debate between Republicans, and not between “liberals” and “conservatives”, like much of the historiography has argued for so many years. Indeed, the language of the break with the past became an important part of liberal ideology in the second half of the nineteenth century, but it was already part of the republican discourse before liberalism became the dominant ideology in Spanish America.

Frank Safford has argued that “there was, broadly speaking, a general acceptance of many aspects of liberal individualist conceptions of society and economy and (to a lesser degree) of liberal ideals of legal equality. (...) Most of Spanish America’s political elite (...) attributed the economic backwardness (...) to the dominance of illiberal Spanish institutions and policies.”¹⁴ I think it is true that these new republics often failed to conform to constitutional ideals and that corporations such as the Church and the military retained their *fueros* and, in a way, the control of the emerging states.¹⁵ Yet, we need to understand better what republicanism and liberalism were all about, and how and when liberalism started to play a determinant role in Latin America. Political instability in Spanish America immediately after Independence can be attributed in part to ideological confrontation, but not between liberals and conservatives (as defined by twentieth-century liberal historiography, in a showdown of federalism versus centralism, or conservative Church-advocates versus anticlerical liberals).¹⁶ Analyzing closely the

¹² *Ibid.*, p. 193. For a very interesting theoretical discussion of this, although outside of the Latin American context, cf. Elster’s “Introduction” and “Consequences of constitutional choice: reflections on Tocqueville”, in his edited volume listed in the bibliography.

¹³ Brazil, of course, is a different case and would have to be treated separately. The sole fact that the Portuguese monarchy found its way to Brazil gave it a legitimacy that the Spanish monarchy did not have in the rest of Latin America. This, of course, does not mean that monarchist ideas disappeared completely in Spanish America. In the case of Mexico, there was certain monarchical itch just after Independence, but it went away sooner, rather than later, after the disastrous reign of Agustín de Iturbide. It remained mostly as a light “under tow” until the second half of the century, when it came back strong after the Mexican-American war. In South America, Bolívar always recognized the presence of monarchical ideas. The plan proposed by Paéz to Bolívar in 1826-27 would be a proof of that.

¹⁴ Safford, p. 51.

¹⁵ Cf. Barrón for the case of Mexico, for example.

¹⁶ For the case of Mexico, Josefina Vázquez, for example, has also challenged the view of a simplistic divide between liberals and conservatives. Cf. for instance, her very provocative essay

first years of the newly found republics, one can see clearly that Spanish America went through a republican phase very much like Europe and the United States, out of which liberalism grew to become the dominant ideology in the second half of the century.

One of the most distinguished historians of Mexican Liberalism, Charles Hale, has argued that it was only after the defeat of Maximilian and the French army (that is, since 1867) that “[Mexican] national destiny came to be officially associated with liberalism, however differently successive generations envisioned the specific elements of that destiny”. And, thus, that “Liberalism as a body of thought and policy becomes far more than a delimited historical phenomenon of the nineteenth century. It is for contemporary Mexico the basic point of ideological orientation.”¹⁷ In other words, liberalism became dominant. To a large extent, I think that this is also true for the rest of Latin America. And it was precisely liberalism that made the wars of Independence —the supposed break from the past— *the* founding moment for Spanish American republics.¹⁸ According to Liberals, Spanish America became a set of liberal republics from the very beginning. As a result, not only has the liberal school of thought dominated our historiography and our interpretation of what the wars of Independence were all about, but has been dominant also when it comes to study and interpret nineteenth-century Spanish America.

This is most decidedly what François Furet is warning us about. We have been taking liberal “revolutionary” creed, the one that became dominant during the last half of the nineteenth century at face value. If Charles Hale was right, and I think he was, in pointing out that liberalism became “the main point of ideological orientation” in Mexico —and I would argue, in all of Spanish America— he was not right in arguing that by analyzing liberalism, and liberalism alone, we could understand the period —that is, the nineteenth century— in all its complexity. Even when Hale recognizes that Liberals and Conservatives were not always that far apart, he chooses to analyze only liberalism.¹⁹ Why?

Let me borrow again from Timothy Anna, who has put it brilliantly, and go back to the epigraph that I chose to open this essay: “the black hole of 1821-1857 is largely of our own making, a modern day perception more than a historical reality”.

“México, la Ilustración y el Liberalismo: 1760-1850”, in which she describes what she calls the two “liberal-centralist experiments” in Mexico between 1835 and 1846. In it, she changes the focus of the ideological confrontation in Mexico from liberalism versus conservatism, to federalism versus centralism. Among others that have recently challenged a simplistic interpretation of nineteenth-century Mexico are Charles Hale, Timothy Anna, Will Fowler and Humberto Morales, whose works are listed in the bibliography. María del Refugio González has also studied conservative thought in Mexico, although in a more general way. *Cf.*, for instance, González, “El pensamiento de los conservadores mexicanos.”

¹⁷ Hale, *Mexican Liberalism*, pp. 2 and 4.

¹⁸ See note 4 above.

¹⁹ *Cf.* Hale’s two classic studies of Mexican Liberalism, *Mexican liberalism in the age of Mora, 1821-1853*, and *The transformation of liberalism in late nineteenth-century Mexico* listed in the bibliography.

We have refused to analyze closely republican ideology and conservative thought in Latin America just because liberalism became “the main point of ideological orientation”. Liberals and liberalism made republicans and conservative thought in Mexico, for example, the main threat for the nation and for the liberal national myth. They have been, since Benito Juárez defeated Maximilian, outside of our national history. And as long as we do not step back from the myth that liberalism has created, we will not be able to understand nineteenth-century Mexico in all its complexity. In this sense, we have to *rescue history from the nation*.²⁰

In the rest of this essay I analyze in detail a republican institution: the “Moral Power”, as it was called in the Venezuelan Constitution of 1819, or the “Chamber of Censors”, used in the Bolivian Constitution of 1826, or the “Supreme Conservative Power” used in the Mexican Constitution of 1836.²¹ This is a prominent example of what I am talking about, because no one other than Alfonso Noriega has studied this institution in any detail for the case of Mexico. Interestingly enough, Noriega treats the Neutral Power as part of conservative thought in Mexico, even when he argues that it had liberal roots.²² And that is precisely the point here: no one else has studied it because this institution has been always linked to “conservatism”, that is, to the part of our history that is not “national”. In the case of Venezuela and Bolivia, Carolina Guerrero in Caracas is the first one to study it in a serious way.²³

I will first trace the origins of the Supreme Conservative Power in French political thought during the French Revolution. I will show that this institution did not come from European conservatism. In fact, it came from one of the most prominent liberal political philosophers of the age: Benjamin Constant and it came precisely as an answer to conservative critiques to liberal theories of

²⁰ Cf. Duara.

²¹ The institution was also used in Brazil, and was called the “moderating power”. Interestingly enough, in that case, a republican institution was incorporated to a monarchical system of government. Comparatively, this may be an extremely interesting case. Cf. Affonso Arinos de Mello Franco. *El Constitucionalismo brasileño en el constitucionalismo a mediados del siglo XIX*. Mexico, UNAM, 1957. This work is also cited by Noriega. See below.

²² I will use “conservative” or “neutral” power interchangeably. People called it differently depending on the context. For the case of Mexico, the obliged and only reference is Alfonso Noriega. In his seminal study of Conservatism and Conservative thought in Mexico, he makes a very brief study of the Supreme Conservative Power. Noriega used the Spanish version of Constant’s *Cours de politique constitutionnelle* (available in the New World around 1831) in which he treats briefly the idea of the Conservative or “Neutral” power. I do not think that he had access to Constant’s *Fragments d’un ouvrage abandonné*, in which he develops further that idea. That I know of, the *Fragments* were first published in 1991, which is the edition that I used. The *Cours de politique constitutionnelle* was first published with a longer title (*Collection complète des ouvrages publiés sur le Gouvernement représentatif et la Constitution actuelle de la France, formant une espèce de Cours de Politique constitutionnelle*) in four volumes between 1818 and 1820 with two different publishers. The French edition of the two-volume *Cours de politique constitutionnelle* was originally published in 1836.

²³ I want to thank Carolina Guerrero, who has shared her work with me. Carolina is actually in the process of writing a dissertation on Bolívar’s conservative power. She was also a student of Luis Castro.

representation.²⁴ Then I will analyze why the Supreme Conservative Power was used in Spanish America. I will show that it was used because of republican concerns with governmental breakdown and anarchy. A short conclusion will follow.

French revolutionary political thought and the idea of the “conservative power”

(...) *Nous sommes revenus après dix ans, au profit du despotisme, à la même erreur qu'on avait commise au commencement de notre révolution par un zèle inconsidéré pour la liberté.*

- Benjamin Constant²⁵

The origins of the conservative power can be found in the political thought of the French Revolution. In 1795 the French Constitutional Assembly was confronted with the problem of trying to stop the revolutionary turmoil. They were not the first ones though, for from the moment the French Revolution started, intellectuals and politicians, no matter their political color, tried constantly to put an end to it. But whether it was the first Constitutional Assembly with the 1791 Constitution, or Robespierre with the Festival of the Supreme Being, all were unsuccessful. The Revolution and its quest for equality had become the driving forces not only of French politics, but also of the whole world.

Among the intellectuals and politicians that proposed different ways to end the Revolution, three were closely related and discussed for a long time how French politics could recover their lost stability. They were Jacques Necker, Mme. de Staël and Benjamin Constant. Here I follow just a small part of their debate, first summarizing briefly Necker's *Réflexions* about equality and its relation to the representative system of government. Then I will examine some of Mme. de Staël's arguments in favor of the idea of a constitutional jury, and compare them to Sieyès's proposal to the Assembly in 1795. Finally, before considering the case of Spanish America, I will analyze some of the characteristics of Constant's design of a “neutral power”, and also how it is a practical way to substitute the king in a system where popular sovereignty has taken over.²⁶

²⁴ Affonso Arinos de Mello Franco claims that the idea was originally conceived by Clemont Tonnerre, but he agrees that it was actually developed by Constant. Cf. Noriega, I, p. 213.

²⁵ Constant, *Fragments*, p. 385. All quotes from *Fragments*, unless otherwise noted.

²⁶ Due to the scope of this essay, I will only discuss the relation between the idea of perfect equality and that of a representative system of government. Specifically, I will try to review only one of Mme. de Staël's and Constant's proposed solutions to Necker's reflections on the subject: that of a “constitutional jury” (in Mme. de Staël's terms) or a “neutral power” (in Constant's lexicon). Thus,

Necker's views on equality and representative government

(...) *Il n'y a d'égalité que pour le néant et la mort...*

- Jacques Necker²⁷

Necker's views on equality can be better understood if one considers first that for him there was a natural order of things that man could not essentially alter: "happily it is outside the power of men to alter in any durable way the elements of social order (...) nature is always there to stop them when they try (...)." ²⁸ Thus, for Necker, since inequalities are embedded in nature, to say that all men are equal is to ignore completely the nature of man: the idea of perfect equality is only an abstract one, and man cannot change that. For Necker, equality should be the result of a political constitution, not its preamble. Just because ranks are frequently an excuse for maintaining the well-being of some despite the envy of others, one cannot pay attention only to the relation between one man and another, losing sight of the political utility of the differences of rank and fortune. It is from here that Necker goes on to say that the idea of perfect equality destroys all the supports of public order, and thus, that it is totally incompatible with it and essentially against liberty. ²⁹

For Necker, only someone that has not analyzed carefully the principle of subordination in big countries can come up with the idea of perfect equality. Public order in big countries depends completely on the concept of obedience. Obedience, in turn, relies on ranks, *natural* ranks, that time has inexorably introduced in every political society. Obedience, respect and subordination are habits, and cannot ever be a simple product of deliberation. Hence, when man introduces equality into society, the latter is composed entirely of rivals, and because there is no distance between those who govern and the governed, no subordination, and no public order, can exist. Like Madison, Adams and Edmund Burke, Necker thought that:

(...) Equality of ranks, absolute equality, equality based on [philosophical] principles, equality that has become an act of faith, hampers equality of respect to the law, because it destroys the equilibrium that the legislators have established between the physical force of the people and the moral authority of their chiefs; between the passionate movement of the multitude and the cautious march of the government; it is precisely that way that *speculative equality* destroys very hastily *real equality*. ³⁰

the entire discussion is based solely on Necker's *Réflexions philosophiques sur l'égalité*, on Staël's *Des Circonstances Actuelles...*, and on Constant's *Fragments d'un Ouvrage Abandonné...*, unless otherwise noted. Since their arguments run through the complete works, I will only footnote when the quote is direct or when the reference is inevitable.

²⁷ Necker, p. 499.

²⁸ Necker, p. 486.

²⁹ This is, of course, an ancient idea that became an important part of conservative thought.

³⁰ Necker, p. 390; emphasis added.

But Necker's drive against equality took him even further. After all, if man has to live with all sorts of *real*, natural inequalities—in beauty, in spirit and talent, in intelligence and memory, in luck and education, in strength and health— why not advocate inequality of ranks, if it is the most ideal and superior of all inequalities? In destroying it, man compromises public order and liberty: forgetting the lessons of experience, he attacks social harmony trying to establish a chimerical ideal. Liberty will always be incompatible with legality if the latter is opposed to the establishment of public order.

Even if in the beginning men were all equal, as time passed nature had introduced in society a great variety of inequalities. Would not it be unjust, against liberty and even tyrannical, asks Necker, to wipe out those inequalities that were a necessary product of different natural degrees of talent, force and luck in the name of an ideal model of perfect equality? If some men accumulated bigger fortunes after years of hard work and centuries of heritage, would not it be against liberty to have them be equal to the rest of men by a simple act of government?³¹ Liberty and equality, says Necker, are in constant opposition, they are only related in abstract theories: "Liberty is the result of perfect harmony, while equality is the beginning of chaos".³²

If men are not and cannot be equal, and if, thus, equality hinders public order and liberty, can there be representative government? It should be said that Necker was not against representation in itself. He was against the link that the French revolutionaries made between equality and representation. For him, it was clear that France had grown too big to have a direct democracy. He even attacks Rousseau on that count.³³ According to Necker, a system of perfect equality in which every individual participates in the making of the laws was not meant for societies already formed.³⁴

Yet, representation taken away from the unequal nature of man could evolve into tyranny. For one thing, Necker argued that public authority was not meant for common people, that it was not for every class in society. Only the enlightened could govern.³⁵ But much more important for Necker was the idea—one that Tocqueville would later hearten—that "the people" could not be understood only as an abstract thought. "The people" could be, in fact, tyrannical, when they were told that they were equal and were given all authority through a system of representation. For representation to work it had to reflect the unequal nature of men, the unequal nature of society:

³¹ Interestingly enough, this is a very liberal argument. Some of Necker's exact words and thoughts on this can be found in pp. 371, 455-456. About his reflections on how free and equal men may in fact favor privilege once nature has introduced differences among them, see pp. 460-464.

³² Necker, p. 401.

³³ Necker, p. 368.

³⁴ Necker, p. 483.

³⁵ This is also a conservative idea that would later travel very well to Spanish America, but for liberals and conservatives alike.

Men have been led to think that [public] authority is created by the law, because when they assemble in the name of the nation they have the faculty to confer such authority... But they are mistaken... The people or their representatives confer authority to whom they judge best, but that delegation of authority becomes null *if it becomes incompatible with the social system* [i.e. reality], if it cannot sustain itself or if it goes against the opinion.³⁶

Furthermore, the principle of absolute sovereignty that would be inseparable from the association of the idea of perfect equality and a system of representation would impede the sound balance between the different political powers of government. For Necker that was exactly what had happened to the first French Assembly: in making the king just a simple bureaucrat subordinated to an all powerful assembly, in placing liberty between the ideas of perfect equality and absolute sovereignty, they had brought about not only confusion, but even despotism.³⁷ For Necker, representation by itself could not depict the general will in a positive manner; it could not, therefore, maintain public order and liberty, because men could not rule and obey at the same time. No one could deny the wisdom of letting the people influence the legislation through his or her elected representatives. But it was also vital that someone else, alien to their passions, like a hereditary king or an elected executive, participate in the making of the legislation, either by approving it or by initiating the legislative process.³⁸

So how then could the Revolution end? Could it end? The solution for Necker was to learn from the English Constitution, which had recognized just what was essential about the idea of equality, but nothing more. Arranging natural inequalities in harmony was for him the secret of social organization and only the result of time. In vain could the French expect their imagination, as opposed to time, to replace despotism and restore order, because respect for the law could never be the result or perfect equality.³⁹ In his own words:

A system of ranks (...) is without doubt the most compatible with civil *and* political liberties, because it is to the most enlightened and educated men that we must give the national representation... Either we neglect the advantages derived from the social state or we admit the ranks on which every political association rests.⁴⁰

³⁶ Necker, pp. 362-363; emphasis added.

³⁷ Necker, p. 415.

³⁸ Necker, pp. 420-421.

³⁹ Necker, pp. 387-388.

⁴⁰ Necker, pp. 448-449; emphasis added.

Madame de Staël: “democrats know how to conquer; aristocrats how to preserve”⁴¹

*Oui, [le jury constitutionaire]
c'est une institution
aristocratique, composée des
destructeurs et des ennemis
irréconciliables de la
véritable aristocratie.*

- Mme. de Staël⁴²

One cannot ignore the fact that Mme. de Staël was Necker's daughter, but more relevant for this essay is the fact that she was his disciple. Indeed, it was Mme. de Staël who published Necker's complete works. Like Necker, she believed that the Revolution had been carried out to preserve representation and to annihilate aristocracy; she thought it absolutely necessary to “study the principles of the system of government that apotheosizes *natural inequalities* in order to destroy *real inequalities*”.⁴³ But unlike him, she did not think that equality—or more specifically, the annihilation of aristocracy—was incompatible with public order, nor that representation without ranks could be the origin of political chaos. Moreover, contradicting her father's beliefs, she thought that “no illusion surrounded the king anymore”, and that it was impossible for him to govern further without causing great harm.⁴⁴ Hence, there was no way out of the republican system of government; but a good constitution, a good institutional design, was needed to put an end to the Revolution.

Three principles, in Mme. de Staël's view, were constitutive of the republican system of government in France. First, the executive power had to be divided amid several individuals.⁴⁵ Second, the election of popular representatives was quintessential to the system because, third, that was the way to prevent the return of any hereditary power—or in other words, to preserve *natural* inequalities without converting them into *political* inequalities. But these three principles had to be modified in order to warrant stability, because France was not ready to have regular elections without endangering the political powers. As things were, the balance between powers had been attained only alternating each year a royalist revolution with a terrorist one.⁴⁶

So how were the republican principles to be modified? For Mme. de Staël the purpose of the representative system of government was to protect the will of the people as if every individual could gather in the “public plaza”, as the ancients had

⁴¹ Staël, p. 164.

⁴² Staël, pp. 163-164.

⁴³ Staël, p. 170; emphasis added.

⁴⁴ Staël, p. 156.

⁴⁵ The reason for this, she believed, was that no one man could govern by himself without being king, so whoever held an undivided executive power would always want to become king.

⁴⁶ Staël, p. 162.

done, to make the laws. So the problem in France was not related directly to the number of representatives in the chambers, or ultimately to the number of chambers. The problem was to preserve the independence of the representatives, but without doing away with everything that would limit their power; to balance “the liberty of movement with the certainty of direction,”⁴⁷ the desire and liberty of change, and the interest to preserve—the two fundamental interests present in every society that needed to be represented in the government.⁴⁸ In practical terms, a *conservative* body of men was needed to give stability to the constitution and to balance the powers of government institutionally; a constitutional jury that would preserve the constitutional order, but allowing the introduction of popular innovations to the law through the elected representatives.⁴⁹

In 1795 the Abbé Sieyès proposed to the National Assembly the creation of such an institution, but Mme. de Staël wanted to give to it much more power than him. In fact, for her the jury had to be an *almost* aristocratic institution; almost, because real aristocracy meant *hereditary* privilege, and as long as the members of the jury were *elected* and the office non-hereditary, they could have certain privileges without becoming a real aristocracy.

Sieyès’s proposal to the National Assembly consisted of an elected body (that would be renovated one third each year among the members of the two chambers of the legislative power) with three main duties: the judicial review of the law; the evaluation of every proposal of modification to the constitution; and the application of “natural” law to bridge the gaps in “positive” law.⁵⁰ Regarding the judicial review, the jury would be responsible for both, thwarting any attempt of each branch of government to surpass its constitutional powers and stopping any legislation contradictory to the constitution. In assessing the proposal for constitutional amendments, the jury would not have the power to actually make any of the changes, but only to submit a proposal to the legislature every ten years. Finally, as a “natural judge” the jury would be the protector of human rights.⁵¹

For Mme. de Staël there were two basic flaws in these provisions. Firstly, it was true that Sieyès’s intention had been that of balancing the political powers, but his provisions did not secure the jury’s independence and could not achieve such a balance. If it was to be independent, its members had to be elected for life, and given enough wealth and power to make them want to defend, even with their lives, the order of things that would permit them to enjoy their power and wealth. Sieyès, fascinated by the idea of perfect equality, had tried to avoid giving the members of the constitutional jury any kind of privilege. But unless they had privileges, the jury

⁴⁷ “... la liberté de la marche et la sûreté de la direction”. *Ibidem*.

⁴⁸ Staël, pp. 173-174.

⁴⁹ Staël, p. 175. Of course, “conservative” here is used in the sense of moderation, not in the sense of reaction. The constitutional jury is only a part of the proposals in *Des Circonstances Actuelles*. Nevertheless, as I noted before, due to the scope of this essay I will only refer to that one.

⁵⁰ Sieyès, pp. 3-4.

⁵¹ The actual text of the provisions proposed by Sieyès can be found in Sieyès, pp. 20-24.

would be useless because they would not be independent. Besides, for Mme. de Staël the principle of non-heredity was the one to avoid. As long as choice substituted for chance, and election for hereditary privilege, the goals of the Revolution could be safeguarded.

Secondly, if Mme. de Staël agreed that the constitutional jury had to carry out the judicial review of the law, that was surely not enough to prevent the different branches of government from exceeding their political powers. Among other institutional arrangements, both the executive's suspensive veto and the power to dissolve the assembly were necessary, as was also the ability to dismiss the government⁵² when it was clear that it was opposed to public opinion.

But, how to hinder these faculties from becoming weapons in a feud between the executive and legislative powers? According to Mme. de Staël there had often been confusion between the necessary (healthy) separation of roles and the true meaning of the division of powers. Indeed, the latter meant that they would always be enemies,⁵³ and it was only public opinion that could force them into agreement.⁵⁴ The constitutional jury would have to be a "superior power to the others, the expression of public opinion" when it came to settle a dispute between the established political powers.⁵⁵ For Mme. de Staël it was already clear that the history of a country governed by institutions, as opposed to a despot, was completely dependent on the wise combination of those institutions.

Constant's *pouvoir neutre ou préservateur*

Le vice de la plupart des constitutions a été de en pas créer un pouvoir neutre...

Le pouvoir préservateur (...) contribue au bonheur et au perfectionnement des gouvernés (...) sans gêner leur indépendance, mais en garantissant leur sûreté.

- Benjamin Constant⁵⁶

Once again, it is crucial to understand that Mme. de Staël and Benjamin Constant had a very close personal relationship, an "extremely fertile intellectual commerce", to say the least, while they stayed together at the castle of Coppet.⁵⁷ Not surprisingly they were very much in agreement upon any number of things, but most importantly, upon two: that the French monarchy was basically dead, and that there was no other

⁵² Here the term "government" should be understood as the French "gouvernement" or, more precisely, as the French "le Directoire" as opposed to the whole "executive power."

⁵³ Staël, p. 179.

⁵⁴ Staël, p. 181.

⁵⁵ *Ibidem.*

⁵⁶ Constant, pp. 374, 417.

⁵⁷ Constant and Mme. de Staël were lovers, of course. Henri Grange. "Introduction", in Constant, p. 9.

way to go, at least at that time, than the republican system of government.⁵⁸ So, if the Revolution was to end, some modifications had to be made to the political institutions to make the republican system of government work.⁵⁹

Like Mme. de Staël, Constant thought that all the precautions that had been taken to prevent the quarrels both between the executive and the legislative powers, when they were divided, and between the people and the government, when there was no real division of powers, had been insufficient to maintain public order. Thus, the establishment of some kind of “third power”, elected for life, between the executive and the legislative in order to balance them was needed:

In a constitution which establishes only two political powers, one that makes the law and one that executes it, if they are divided no one can settle their disputes; if they are united, no one can stop them from encroaching the people’s rights. It is this gap that we have to bridge; and to do it we have to create a third power that is neutral between the legislative and the executive powers.⁶⁰

For Constant, the main purpose of the Conservative Power (*pouvoir préservateur*) was to protect both the government when the rulers were divided, and the people from the government’s oppression. In order to do that, it would have to possess two important faculties: the ability to dissolve the legislative assemblies and dismiss the ministers (or whoever was the agent of the executive power). In other words, Constant’s idea was not very different from Mme. de Staël regarding both, the specific provisions and the faculties that the new power would have.⁶¹ Nevertheless, one must not forget that Constant’s thoughts about the neutral power were much more developed than Mme. de Staël’s.

⁵⁸ Of course Constant changed his mind about this many times during his life, but when he was at Coppet writing this particular book, he was pretty much convinced about it. The same can be said about the republican consensus in Spanish America. Even when some people later changed their minds (like Lucas Alamán, for example), during the first four decades after Independence there was a republican consensus. For the case of Lucas Alamán, cf. the classical works of José Valadés and Moisés González Navarro listed in the bibliography. For the case of Constant, see Constant, *Political Writings*, also in the bibliography.

⁵⁹ Constant, pp. 380-381.

⁶⁰ Constant, p. 373. It is important to note here that for Constant this “third power” could not be the judiciary: “Pourquoi ne pas réunir le pouvoir préservateur au pouvoir judiciaire? Parce qu’il est impossible de passer d’une autorité discrétionnaire à l’exercice d’une autorité astreinte à des formes”. Constant, p. 381. French revolutionaries, in general, thought that the judges should not have political power. In part, that is why they did not imitate the US Constitutional Assembly in making the judiciary in charge of the constitutional review of the law.

⁶¹ Constant knew also, of course, Sieyès’ proposal to the National Assembly. Due to the scope of this essay I will not include references to all the faculties that Constant wanted to give to the neutral power. It is important though to note here that he included, besides the power to dissolve the assembly and to dismiss the ministers, the power to pardon, the power to call the attention of the executive to the complaints of the people and the power to modify the constitution –although this last one not by itself and only by the proposal and agreement of the other powers.

For one thing, Constant was much more clear about why a new power had to be created. Monarchy, he believed, had many advantages. For instance, a king could dismiss the ministers (the agents of the executive power) without bringing about political disaster, because the king had two different kinds of power: one positive—the executive power in itself—and the other one “royal” or “neutral”, composed basically of tradition and always situated between the people (the popular assembly in a representative government) and the ministers. It was using the latter that the king could dismiss the ministers without accusing or punishing them, avoiding a political crisis. But in a republican system of government there was no one that could settle the disputes between the executive and the assembly. For the executive to be successful when dissolving the assembly the latter had had to deviate against the people. If not, the same representatives would be elected time and again, leaving no choice to the executive but to use force (that is to say non-institutional means) to coerce its will. Likewise, if the assembly should dismiss the executive without restriction, the latter would become inevitably just a subordinate appendage of the former. So the “conservative” or “neutral” power would have to substitute for the king in a republic.

There was also another important reason to have it: if it was true that a government that did not evolve hand in hand with the human spirit was harmful, it was also true that it could not change beyond “the ideas and the spirit of the times”.⁶² In other words, the government had to be “conservative”, but only regarding the preservation of individual liberty and public order. Furthermore:

The neutral power, as we understand it, is not an immutable power that would immobilize the social organization, nor a conservative power that would exert its influence in favor of any group of opinions.⁶³

In other words, like Mme. de Staël’s *jury constitutionnaire*, Constant’s *pouvoir préserveur* would not only balance the power of the different government branches, but also “the liberty of movement with the certainty of direction”. But in doing this it was imperative that the neutral power stayed out of people’s lives. It was to be only a “judiciary of the other powers.”⁶⁴ It could not be, as Sieyès had proposed, a “natural jury” guardian of human rights. Power was a creation of society, and could be suspended, modified or dissolved by it, not the other way around. What’s more, *man preceded society*, and accordingly had rights independent from it, of which the most sacred was to be judged by established and public procedures. In that sense, the neutral power had nothing to do with the individual. If

⁶² Constant, p. 415.

⁶³ Constant, p. 417. In other words, this “conservative” government had to act in a very liberal way.

⁶⁴ Constant, p. 390.

discretionary power over the executive and the legislative were extended as to include any power over the individual, it would become a tyrannical instrument.⁶⁵

Simón Bolívar, Lucas Alamán and the Conservative Power

The codes consulted by our magistrates were not those which could teach them the practical science of government but were those devised by certain benevolent visionaries, who, creating fantastic republics (*repúblicas aéreas*) in their imaginations, have sought to attain political perfection...

-Simón Bolívar⁶⁶

(...) To know if a constitution is a good constitution, it is necessary to put it into practice: it is only experience that will show its weaknesses.

- Benjamin Constant⁶⁷

The diffusion of the ideas of the Enlightenment to America is a well-documented process. The spread of liberal ideology from England to continental Europe, the American Revolution, the French Revolution and Napoleon's invasion of Spain in 1808, made it a lot easier for the ideas of the Enlightenment to travel to Spanish America. The influence that these ideas would have in the independence movements cannot be over stressed.⁶⁸ But I want to concentrate for this essay in the role that two men played in this process: Simón Bolívar and Lucas Alamán. Both men were part of the creole elite in Spanish America that traveled to Europe in the final years of the eighteenth century and the first two decades of the nineteenth, and that brought back to the New World the ideas of the Enlightenment.

Bolívar was introduced to the ideas of Locke, Hobbes and the French *philosophes* before he set sail for Europe at the age of sixteen (1799). After a brief stay in Mexico, he finally arrived in Spain and traveled to France. Following a quick trip back to Venezuela, he returned to Europe, where he traveled extensively. In 1806 he went to the United States, and by 1807 he was back in Caracas, where he would start his political and military careers.⁶⁹

Alamán was also schooled in the ideas of the Enlightenment before he traveled to Europe. He arrived to Spain in 1814, when Ferdinand VII had already

⁶⁵ The conservative power was also, in a sense, a way of dealing with the problem that liberalism had created when it had negated the possibility of having emergency powers as part of the constitutional design. Cf. Aguilar Rivera.

⁶⁶ Bolívar to the Citizens of New Granada (December 15, 1812), in Lecuna and Bierck, I, pp. 18-26. (Hereafter referred to as *Manifiesto of Cartagena*.) The quote is from pp. 18-19.

⁶⁷ Constant, p. 419.

⁶⁸ See, for example, Guerra, *Modernidad e independencias*; Rodríguez O., *Mexico in the Age of Democratic Revolutions*; and the works by Chiaramonte listed in the bibliography.

⁶⁹ There is a myriad of biographies of the Liberator. The best one is probably Indalecio Liévano Aguirre's listed in the bibliography. For this essay I used the short biographical sketch by Harold A. Bierck Jr. in Lecuna and Bierck, also listed in the bibliography.

dissolved the Spanish Liberal *Cortes*. He also traveled extensively in Europe, where he spent almost six years before going back to Mexico early in 1820, just in time to see the Viceroy swear the Cadiz Constitution of 1812 and to get elected as a deputy to the reinstalled *Cortes* in Spain. He went back to Europe to take his seat, which marked the beginning of his political career.⁷⁰

But Bolívar and Alamán had other things in common. While in Europe, they had witnessed the spread of republican thought in Spain. They had experienced how the consensus for the republican system of government had grown stronger in the face of the absolutist attempts of Ferdinand VII. And they both had the opportunity to read Constant's work, whom they both also met. These common experiences gave some basis to their shared views of the political and revolutionary processes in Spanish America.⁷¹

For one thing, very much like Necker, Mdm. de Staël and Constant, both men thought that Spanish America had to avoid the anarchical course the French Revolution had taken. Neither in tyranny nor in anarchy could liberty be achieved. Secondly, soon after Independence both Bolívar and Alamán became convinced that a republican system of government was the only option for the newly created nations in America (just as their French counterparts came to believe after the death of Louis XVI).⁷² Iturbide's attempt of building a Mexican Empire served as a mighty example of what the future of any monarchy in America would be: "should any ambitious soul aspire to make himself emperor, there [is] Iturbide to warn him of what he may expect", Bolívar told the Bolivian Congress in 1826.⁷³ "Iturbide's empire (...) could rather be called a dream or a theatrical play", Alamán wrote years later.⁷⁴

Thirdly, both Alamán and Bolívar were convinced of the advantages of political representation. In fact, political representation was an idea that no one in Spanish America contested. Not even Iturbide had tried to govern without some kind of representative assembly.⁷⁵ This is all the more important because one of the main problems of institutional design that both Bolívar and Alamán tried to solve during their long political careers was precisely how to balance power among the different branches of government, something Mme. de Staël and Constant had worked on, as was discussed above.

Finally, and this time as opposed to the French who never put in practice de Staël's or Constant's ideas, Lucas Alamán and Simón Bolívar both actually wrote legislation that would put those ideas in practice. Bolívar used them twice, in the

⁷⁰ The best biography of Alamán is still Valadés, *Alamán: estadista e historiador*, listed in the bibliography.

⁷¹ At this point I don't know of any direct contact between Simón Bolívar and Lucas Alamán. Further research in Bolívar's and Alamán's papers could reveal otherwise.

⁷² See above.

⁷³ Bolívar to the Congress of Bolivia (May 25, 1826), in Lecuna and Bierck, II, p. 600.

⁷⁴ Alamán, *Historia de Méjico*, V, p. 754.

⁷⁵ The best analysis of Iturbide's empire is Timothy Anna's *The Mexican Empire of Iturbide*, listed in the bibliography.

Venezuelan Constitution of Angostura in 1819 and in the Bolivian Constitution of 1826. Alamán used them just once, in the Mexican Constitution of 1836.

Bolívar's first experiment: the Constitution of Angostura and the Moral Power

Morality and enlightenment are the foundations of a republic; morality and enlightenment constitute our primary needs.

- Simón Bolívar⁷⁶

It is in Angostura, in 1819, that Bolívar first proposes the creation of a fourth branch of government. After seeing the first Venezuelan Republic fail in 1812 and having fought the infamous *Guerra a Muerte* (the War to Death), Bolívar was convinced that the revolution for Independence had created a condition of chaos in America: “uncertain of our destiny, and facing anarchy for want of a legitimate, just, and liberal government, we threw ourselves headlong into the chaos of revolution.”⁷⁷ Hence, very much like the French revolutionaries, Bolívar would try, once and again, to stop the revolutionary turmoil. It is in Angostura, however, that he tried to do it for the first time by proposing a constitution that he himself had designed.

After relinquishing the dictatorial power that Congress had given him and “with the frankness of a true republican”,⁷⁸ he went on to show the representatives, in a tone very similar to Mme. de Staël's, why the republican system of government was the best option:

Venezuela, on breaking away from Spain, has recovered her independence, her freedom, her equality, and her national sovereignty. By establishing a democratic republic, she has proscribed monarchy, distinctions, nobility, prerogatives, and privileges. She has declared for the rights of man and freedom of action, thought, speech, and press. These eminently liberal acts, because of the sincerity that has inspired them, will never cease to be admired. The first Congress of Venezuela has indelibly stamped upon the annals of our laws the majesty of the people, and, in placing its seal upon the social document best calculated to develop the well-being of the nation, that Congress has fittingly given expression to this thought.⁷⁹

⁷⁶ Address Delivered at the Inauguration of the Second National Congress of Venezuela in Angostura (February 15, 1819), in Lecuna and Bierck, I, pp. 173-197. (Hereafter referred to as Address of Angostura.) The quote is from p. 192.

⁷⁷ Bolívar to a Gentleman of the Island of Jamaica (September 6, 1815), in Lecuna and Bierck, I, pp. 103-122. (Hereafter referred to as the Jamaica Letter.) The quote is from p. 113.

⁷⁸ Bolívar's own words. Address of Angostura, p. 175.

⁷⁹ *Ibid.*, p. 178. He had expressed this belief before. Cf. his Jamaica Letter p. 116 and ff.

But his belief in the republican system of government was not blind. He was aware that a good constitutional design was fundamental, and had expressed before that among the causes for the failure of the First Republic the most important one had been “the nature of its Constitution”.⁸⁰ The balance of power among the political branches of government in a republic was the cornerstone in a system where popular sovereignty had taken over. The similarities between Necker and Bolívar are striking on this point. When analyzing the reasons for the failure of the First Republic, Bolívar argued as if quoting directly from Necker’s *Réflexions*: “what weakened the Venezuelan government most was the federal form it adopted in *keeping with the exaggerated precepts of the rights of man*; this form by authorizing self-government, disrupts social contracts and reduces nations to anarchy”.⁸¹ He argued that not all men could govern, and that “institutions which are wholly representative are not suited to our character, customs, and present knowledge”.⁸² And again, with striking similarity to Necker, Bolívar argued in front of Congress:

Most wise men concede that men are born with equal rights to share the benefits of society, but it does not follow that all men are born equally gifted to attain every rank. All men should practice virtue, but not all do; all ought to be courageous, but not all are; all should possess talents, but not everyone does. Herein are the real distinctions which can be observed among individuals even in the most liberally constituted society. If the principle of political equality is generally recognized, so also must be the principle of physical and moral inequality. Nature makes men unequal in intelligence, temperament, strength, and character. Laws correct this disparity by so placing the individual within society that education, industry, arts, services, and virtue give him a fictitious equality that is properly termed political and social.⁸³

Thus, Bolívar recognized the importance of the critique that conservative political philosophers had made to the French revolutionaries. And in this first bolivarian experiment in constitution making, Bolívar’s proposal to the Venezuelan Congress resembles more Mme. de Staël’s solution than Constant’s liberalism. Like de Staël, Bolívar thought that a nobility based on privilege would always destroy equality and liberty, but that some kind of privilege had to be given to a “conservative” body of men to avoid leaving the well-being of the nation to “chance and the outcome of elections”.⁸⁴ To achieve the balance of powers, he followed closely the English example. He proposed to give the legislature the power to dismiss the ministers and

⁸⁰ *Manifiesto of Cartagena*, p. 23.

⁸¹ *Ibid.*, p. 21. Emphasis added. This quote, of course, reminds one also of the English conservative political philosopher Edmund Burke. Cf. his *Reflections on the Revolution in France*.

⁸² Jamaica Letter, p. 114. Cf. also Address of Angostura, p. 181: “Our moral fibre did not then possess the stability necessary to derive benefits from a wholly representative government”. A “wholly representative government” should be understood here as a system of undivided sovereignty.

⁸³ Address of Angostura, p. 183.

⁸⁴ *Ibid.*, p. 186.

the president, to give the latter the faculty to suspend the decisions of the judiciary and, finally, the creation of a hereditary senate to give stability to the government and to serve as a “counterweight to both government and people”.⁸⁵

Yet, Bolívar, in the most pure form of classical republicanism, proposed to the Venezuelan representatives the creation of a “moral power”. “Happiness consists in the practice of virtue”, he told the representatives, and having been subject to ignorance, tyranny and vice under the Spanish yoke, the American people had been unable to acquire knowledge, power of civic virtue. Accordingly, it was indispensable to strengthen first the spirit of the people in order for them to be able to value and enjoy the fruits of liberty:⁸⁶ “virtuous men, patriotic men, learned men make republics”.⁸⁷

Hence, for this first constitutional experiment, Bolívar followed Constant’s design of a fourth power of government but, as opposed to the latter’s liberal design, he put it in charge of everything that had to do with education and morality. Not only would the Moral Power intervene in the individuals’ affairs, it would literally have “jurisdiction over the youth, the hearts of men, public spirit, good customs, and republican ethics”.⁸⁸ For Bolívar liberty was not enough: he wanted a people that would also be virtuous.

Bolívar’s second experiment: the Bolivian Constitution of 1826

You will receive the most liberal constitution in the world.

- Simón Bolívar⁸⁹

Six years went by before Bolívar had a second chance of building a country “from scratch”. In 1825 Peru and Argentina recognized the Independence of a new republic, one that would take Bolívar’s name and that would ask him to give it its first constitution: Bolivia. “This Republic of Bolivia —Bolívar said— has for me a particular charm: not only its name, of course, but also that it has every possible advantage without any impediment. It looks even handmade (*parece mandada a hacer a mano*). The more I think about it, the more I think it is a small wonder”.⁹⁰

Yet this time, even though Bolívar had basically the same goal —that is, to put an end to chaos— he would approach constitution making in a radically different way. To understand this, it is important not to lose sight of the fact that by 1825 the Independence of Spanish America was not in imminent danger any more. Liberty, in

⁸⁵ *Ibidem*.

⁸⁶ *Cf. ibid.*, pp. 176-177.

⁸⁷ *Ibid.*, p. 183.

⁸⁸ *Ibid.*, p. 192.

⁸⁹ Bolívar to the citizens of Bolivia (January 1, 1826), in Lecuna, I, p. 498.

⁹⁰ Bolívar to Santander (December 12, 1825), in Lecuna, I, p. 439.

that sense, was a given. Yet, anarchy had predominated, and local *caudillos* had taken control all over Spanish America, and without institutional means of control they had become tyrants. The time to protect the individual from the power of government had come.

In 1826 Bolívar was still convinced that a representative system of undivided sovereignty and popular elections was the greatest possible evil for a republican form government.⁹¹ He was also persuaded that as long as choice substituted for chance some kind of privilege would have to be part of the constitutional design to give the system stability.⁹² However, this time he explicitly told the Bolivian Congress that “the inviolability of the individual” was the true purpose of society and the source of all other safeguards.⁹³ As a result, the Bolivian Constitution of 1826 shows clearly Bolívar’s evolution from republicanism to liberalism.

For the Bolivian Constitution, Bolívar followed Constant’s design of a fourth political power much more closely. He created the “Chamber of the Censors” (equivalent to the Conservative Power). This time the fourth power had almost all the political attributes that Constant had proposed. The censors were to be elected for life, they were in charge of the judicial review of the law, and they could ask the Senate to dismiss the vice-president and the ministers but could not dismiss the legislative assembly. In turn, the legislative assembly would elect the president for life, who would be the head of state; the vice-president would succeed the president and was in charge of the executive power and the vice-president was solely responsible for the acts of government. In other words, Bolívar divided in the Bolivian constitution what Constant had called the “neutral” or “royal” power between the president and the censors, balancing power among the different branches of government in order to avoid tyranny and the infringement of people’s rights.

Nevertheless, Bolívar did not abandon his old republican concerns about civic virtue. Although the censors would be in charge of protecting popular rights, they would also “safeguard morality, the sciences, the arts, education, and the press”. They could “condemn to eternal opprobrium arch criminals and usurpers of the sovereign authority”, and could “bestow public honors upon citizens”.⁹⁴

There is no question that in this second constitutional experiment Bolívar emphasized much more the construction of the institutions needed to warrant individual freedom. In fact, his transition from republicanism to liberalism can be seen in some of the other decrees and laws that he passed during the creation of Bolivia. Between July and December of 1825, he ordered in several decrees that

⁹¹ Cf. Bolívar to the Congress of Bolivia (May 25, 1826), in Lecuna and Bierck, II, pp. 596-606. (Hereafter referred to as the Message to the Congress of Bolivia.)

⁹² This also goes back to Mme. de Staël.

⁹³ Message to the Congress of Bolivia, p. 603.

⁹⁴ *Ibid.*, p. 598.

communal lands be distributed individually among Indians, a policy that all liberal governments in Spanish America would pursue after Independence.⁹⁵

Yet, in April 1826, he told Santander: “leadership disgusts me as much as I love glory and glory is not to command but to exercise great virtues”.⁹⁶ If he returned to Constant, to the liberal Constant, it was because he was convinced that anarchy had driven to tyranny in Spanish America, and that the only way to stop tyranny was to set limits to what governments could do. Liberty, individual liberty, had finally become as important as virtue.

The Liberal experiment of Lucas Alamán: the Supreme Conservative Power

Eleven years of experience have shown us that the social powers have transgressed, not one but many times, the limits that the constitution has set for them.

- Fco. Manuel Sánchez de Tagle⁹⁷

In 1835, Mexico, very much like the rest of Spanish America, had gone through 27 years of political disorder –to say the least. “Congresses have come and gone, some composed of only one chamber, others composed of two, but nothing has improved; the Spanish Constitution yielded its place to the Federal one in 1824; the latter was substituted by the Centralist of 1836 (...) and the results were the same”, later wrote Lucas Alamán.⁹⁸ But unlike the rest of the continent —with the exception of Brazil— Mexico had a brief and disastrous experiment with monarchy after Independence.

Political chaos and the failure of monarchy are all the more important in the case of Mexico because the republican consensus became even stronger. When José María Gutiérrez de Estrada published his famous monarchist pamphlet in 1840, for example, he had to go into hiding and later flee the country because of the violent reaction of federalists and centralists alike. The failure of Iturbide’s empire had left monarchists in Mexico completely isolated.

But after experimenting with a federalist republic, Mexico went through a series of *coups* and military revolts between 1829 and 1832. In 1833 Santa Anna became president of Mexico for the first time and political instability led to the so-

⁹⁵ Cf. Grases, pp. 112-113.

⁹⁶ Quoted by Grases, p. 47.

⁹⁷ *Discurso del señor Don Francisco Manuel Sánchez de Tagle en la sesión del 15 de diciembre, sobre creación de un Poder Conservador*, p. 10.

⁹⁸ *Historia de Méjico*, V, pp. 927-928. Alamán’s pessimism is also apparent in his prologue to the first volume of the *Historia*.

called centralist revolution of 1834. One of the leading politicians and maybe the brightest political mind in Mexico during the first half of the nineteenth century, Lucas Alamán, was among the people who thought that the system of government had to change in order to stop revolutionary violence. It was Lucas Alamán—with the help of another brilliant mind of that time, Francisco Manuel Sánchez de Tagle—who introduced the idea of the Supreme Conservative Power at the time Congress met in 1835 to reform the constitution.

Although he was a deputy, Lucas Alamán had not been able to take his seat in Congress because there was a lawsuit pending against him.⁹⁹ So it was another deputy, Francisco Manuel Sánchez de Tagle, who gave a speech in Congress to defend the project for establishing the Conservative Power.¹⁰⁰ As opposed to Bolívar, Lucas Alamán and Sánchez de Tagle followed Constant almost to the letter. They proposed to Congress a Conservative Power that was to be “neutral”,¹⁰¹ with the faculty of dismissing the president, the ministers and the legislative assembly – although in the case of the latter they argued only for a temporal suspension. They wanted it to be also in charge of the judicial review of the law and to be absolutely independent—although not elected for life.¹⁰²

In his speech to Congress, Sánchez de Tagle argued that the Conservative Power was needed to end the “era of revolution”, but also to balance the power between the legislative and executive branches of government, to protect both the government when the rulers were divided, and the people from the government’s oppression. On the one hand, he said, just like Constant, that all the institutional devices that had operated since the republic was created had not been enough to balance the power between the executive and the legislature. On the other, Sánchez de Tagle also argued that the Conservative Power should stay out of people’s lives, in order to prevent it from becoming tyrannical.

Yet, in the most pure republican tone, he said that the Conservative Power would be needed as long as civil virtue was absent in the republic: “the day that every man complies with all natural and divine precepts, this valley, now of crime and tears, will be the foyer of paradise”.¹⁰³

⁹⁹ As minister of Relations during the administration of Anastasio Bustamante, he had been involved in the execution of Vicente Guerrero, the heir of Morelos’s insurgent movement during the wars of Independence.

¹⁰⁰ Francisco Manuel Sánchez de Tagle is not a well-known figure in Mexican History. Yet, he had a brilliant political career. He was a member of Congress during Iturbide’s reign, he was also a member of the first National Congress and was subsequently elected five times as Deputy and one as a Senator. He was vice-governor of the State of Mexico, governor of the State of Michoacán and one of the five members of the Supreme Conservative Power during the years it functioned. He is most famous, though, for being the author of the Mexican Declaration of Independence. Cf. Miquel i Vergés. *Diccionario de Insurgentes*, pp. 537-538.

¹⁰¹ They even called it that, following Constant even in the terminology.

¹⁰² This was the only difference with Constant’s ideas.

¹⁰³ Sánchez de Tagle, p. 15.

Conclusion

I have not tried to analyze in depth the political thought of Bolívar or Alamán. Neither have I tried to analyze from the point of view of political philosophy the specific provisions of Bolívar's or Alamán's proposals. I have breezed through them just to show that there was indeed what I have called a republican discourse in Spanish America after Independence that can be clearly distinguished from liberal ideology and discourse. The Conservative Power is just an example of what has not been studied and that could lead to a much better understanding of nineteenth-century Spanish America. I have also tried to show how there was a tension between republican discourse and liberal ideology. In the case of Bolívar, the transition from republicanism to a more liberal ideology is readily apparent. In the case of Mexico, even though Alamán's proposal was closer to liberalism, neither he nor Sánchez de Tagle ever abandoned completely their fixation with civic virtue and republicanism.

This is all the more important, because I have argued that historiography has not studied republicanism or conservative thought in Spanish America in all its complexity. If Lucas Alamán, for example, who has always been considered the champion of conservatism and conservative ideology in Mexico, was perfectly capable of proposing to the Constitutional Assembly of 1835 such an institution to end with political disorder, governmental breakdown and tyranny, we still don't know what that meant for liberalism. On the one hand, for instance, we have not really studied what religion meant for republicans. Its importance went far beyond *fueros*; it was considered to be a social bond, one that was important to make virtuous citizens. On the other hand, liberalism in the nineteenth century was also much more complex than we have always been ready to admit. Its dialogue with conservatism has always been almost completely ignored.¹⁰⁴ It is not only about centralism versus federalism, or clericalism versus anticlericalism.

Let me conclude by saying just a few words about what happened to Bolívar and Alamán's projects. Bolívar's Moral Power was only published as an appendix to the Venezuelan Constitution of 1819. As such, it never became law. His proposal for a Chamber of Censors for the Bolivian Constitution of 1826 was accepted but modified by the Constituent Congress. The modifications were not important, but the constitution, anyway, was just in force for five years. In the case of Alamán's proposal, it was hotly debated and finally passed by Congress by only one vote. It was in force for six years and then toppled by yet another armed revolt. Ironically, if liberals today have refused to analyze it closely, during its debate in Congress its principal enemy was no other than Antonio López de Santa Anna. His argument: the Conservative Power would restrict his power; it would prevent him from becoming what Iturbide had become: a tyrant. A republican institution very much in tone with liberal ideology has thus been buried and forgotten in our conservative cemetery.

¹⁰⁴ Some of the authors that have studied conservatism in Mexico and its dialogue with liberalism are listed in note 16 above.

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