

Dossier

The Hanseatic Project in Panama: From Autonomy and Free Trade in the 19th Century to Sovereignty and Institutional Transitism in the 20th Century

El Proyecto Hansiático en Panamá: de la autonomía y el libre comercio
en el siglo XIX a la soberanía y el transitismo institucional en el siglo
XX

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Abstract: The hanseatic project have shaped the construct of the Panamanian identity, when it proposed the construction of a world trade center on the Isthmus, which, protected by world powers, also demanded a level of independence in their governance, confronting the centralism of Bogotá in the 19th century and the US imperialism in the 20th century. The balance derived from both paradigms established a sense of belonging and identity, which allowed the Panamanian State to obtain the benefit from the transit zone with the reversion of the Panama Canal on December 31, 1999. Nonetheless, the assessment of the economic performance and the independence that the State must achieve could be reasons for rethinking the hanseatic project in the 21st century.

Keywords: national identity, globalization, hanseatic project, sovereignty, transitism.

Resumen: El Proyecto Hansiático ha construido la identidad panameña, al proponer la construcción de un centro de comercio mundial en el Istmo, que protegido por las potencias mundiales, también exigía un nivel de independencia en su gobernabilidad, enfrentándose así en el siglo XIX al centralismo bogotano y en el siglo XX al imperialismo estadounidense. El equilibrio de ambos paradigmas fundamentó el sentido de pertenencia e identidad que permitió al Estado panameño la recuperación de la zona de tránsito, con la reversión del Canal a Panamá el 31 de diciembre de 1999. Sin embargo, la valorización del rendimiento económico y la independencia que el Estado debe alcanzar podría ser la razón para un replanteamiento del Proyecto Hansiático para el siglo XXI.

Palabras clave: identidad nacional, globalización, Proyecto Hansiático, soberanía, transitismo.

Introduction

The following article emerges from the framework of the research project called “The millennials of Panama: a sense of belonging and identity in a globalized society”, which seeks to analyze those perceptions that influence the Panamanian identity in the new generations. National identity promotes bonds of unity among individuals and groups through mutual connection, in which sovereign tangible and intangible components are imagined and limited to those who belong to a particular national community (Anderson, 1993). In this process, the States have been the nation's primary builders, although globalization has diminished their role.

This article will examine how the hanseatic project has been present in the main paradigms that have shaped Panama as a nation, since the 19th century when its territory's strategic location has been linked to a sense of belonging and national identity. Originated from the first centuries of the colony –although interrupted for half a century in the 18th century– when it was established that Panama would be a strategic point as a commercial route for the transit of precious metals and merchandise and that has been present in its socioeconomic structure until today (Castillero Calvo, 2017).

Considering that historical events are decisive in building identities, two historical events have built the Panamanian identity in the 20th century: the separation from Colombia in 1903, which made Panama a US protectorate through the Hay-Bunau Varilla Treaty. This treaty established that in exchange for guaranteeing the Panamanian independence after a civil war, confronted between the Colombian liberal and conservative political parties and because of an inconclusive result in the Department of Panama, Panama would cede the maritime transit zone –the Canal Zone– located between the terminal cities of Panama, in the Pacific Ocean, and Colón, in the Caribbean Sea to the United States, including the right to intervene in the country for the construction, operation, and protection of the Canal.

The other historical event was the reversion of the Panama Canal on December 31, 1999, which meant the perfectionism of the country's independence with the annulment of the 1903 Treaty, when the Panama Canal Company ceased to be administered by the federal government of the United States and therefore, was constituted, at the constitutional level, in a patrimony of the Panamanian State. This event became more relevant when the US invasion in 1989 not only violated the principle of governability of Panama but, by destroying the institution that guaranteed the independence between the States, also served as an excuse for non-compliance with the Torrijos-Carter Treaty of 1977, which established the reversion since, in its conception, Panama would be

unable to defend the Canal. It would be necessary to preserve the existing military enclaves in the Panamanian territory in the face of a possible external threat.

The hanseatic project in Panama in the 19th century

A review of the Panama Independence Act on November 28, 1821 reveals how identified Panamanians were with their territory when their spontaneous decision to become independent from Spain and join the Republican State of Colombia materialized, with the express proviso that the Isthmus would develop its own economic regulations for its internal governance. Thus, the historical association between the neighboring States that constituted the Viceroyalty of Nueva Granada was official, highlighting the importance of the route through which merchandise transited between the City of Panama, on the Pacific Ocean, and the City of Portobello in the Caribbean Sea.

The centralism and protectionism of the Bolivarian Constitutions would reinforce the autonomist and free-trade spirit in the mindset of the Panamanian elite.¹ It intended to reinstall prosperity during the Portobello fairs in the 16th and 17th centuries. However, it was unaccomplished in the second half of the 18th century, when the Spanish Crown abolished the transit through the Isthmus, favoring transit through the Southern Cone.

Faced with the failure of the Amphictyonic Congress of Panama in 1826, where the recognition of the differentiation of the Isthmian territory, called to serve the world trade, was expected, the hanseatic project was then advocated as a development formula, establishing the achievement of this objective with the cooperation of the time's global powers to defend the Isthmus. Contrary to the Republics of Ecuador and Venezuela that became independent from the centralism of Bogotá after the dissolution of Gran Colombia in 1830, the Isthmus of Panama failed to accomplishing it, and the spirit of the hanseatic project would mold the relations with the government of Bogotá during the second half of the 19th century, with three historical events that reflect the political autonomy and the hanseatic economic free trade yearned for by the isthmians: the creation of the Federal State of Panama in 1855; the revocation in 1886, at a constitutional level, of the autonomy achieved and the submission of the Department of Panama to the central government of Bogotá, evidencing the tension that the hanseatic project generated; and the War of the Thousand Days, a Colombian civil war waged from 1899 to 1902, when a conservative party quickly victorious in the current Colombian territory, faced a liberal party in the Isthmian territory for three years, to such an extent that its culmination was made possible by the American mediation, interested in the construction of the Canal through Panama.

The rejection by the Colombian Congress of the cession of the canal strip to the United States in June 1903 moved the Panamanian governing elites close to the foreign interests settled in the Isthmus – the American shareholders of the Panama railroad and the French shareholders of the Compagnie Nouvelle du Canal de Panama² to secede from the rest of Colombia on November 3 of that year, with the United States government's support.

Evolution of the hanseatic project in the 20th century: transitism and sovereignism

Impact of the Separation from Colombia

The hanseatic project's free trade paradigm prevailed at the onset of the republic. The thought of a nation open to world trade is depicted in the Panamanian national symbols when explained that, by fulfilling the mission that nature had granted to the Isthmus as a point of union between the Pacific Ocean and the Caribbean Sea, the expected prosperity would be achieved. Thus, the national anthem, officially adopted in 1906, establishes that,

Progress caresses your path to the rhythm of a sublime song.

You see both seas roar at your feet,

Giving you a path to your noble mission.

A reaffirmation of its mission is present in the motto of the National Coat of Arms, which names Panama as 'Pro Mundi Beneficio'. This concept has been transmitted to the population as the country's mission until now. It may be a cause for the misinterpretation of the hanseatic project as being economic only, for shaping the country's establishment under the free trade paradigm, putting aside the autonomist paradigm.

The perpetual cession of the territory of the Canal Zone to the United States, established in the Hay-Bunau Varilla Treaty,³ signed on November 18, 1903–15 days after the separation from Colombia–did not allow the materialization of the construction of the Panamanian nation under this single paradigm since the creation of a colonial enclave in the center of the country, administered by the United States government, excluded Panamanians from the exploitation of their primary resource, their geographical position, thus totally hindering the idealized commercial prosperity.

This caused the first conflict between the authorities of the Canal Zone and the free trade group when the US unilaterally interpreted that the 1903 Treaty established that it was a US territory, where the tariffs set by the Dingley Tariff could be applied, even to Panamanian

products, while the Zone was declared open to world trade. To avoid further conflicts, the US decided to issue the Taft Agreement, revoking the previous measures, and allowing Panamanian merchants to access their merchandise through the Zone.⁴ In exchange, Panama agreed to establish the US dollar as a legal tender in the country.

Slowly, the free trade paradigm transformed into an institutional transitist paradigm, strongly sponsored by the State but at the service of the dominant economic groups. These, despite not having the administration of the leading entities of the Transit Zone, such as the Canal and the Panama railway, sought alternate participation in them, leaving the development of other regions of the country behind. Once World War II ended, the construction of the Tocumen International Airport, seeking the transit of goods and especially people, was completed in 1947, and the creation of the Colon Free Zone, the leading and largest free zone in the American continent, was finished in 1948. The decisive moment of the transitist vision would be highlighted when the Panamanian trade groups obtained, with the Remón-Eisenhower Treaty of 1955, access to the Canal Zone market and the taxation of the Panamanian workers of the Canal Company to the Panamanian State. In the case of this treaty, Panama granted, in exchange, part of Panamanian sovereignty of its territory, such as the re-establishment of the Río Hato military base, located 140 km outside the Canal Zone, to serve the US military strategy in the fight against communist movements in the region.

On the other hand, if in the 19th century the hanseatic project advocated an autonomist movement against the centralism of Bogotá, in the 20th century, the fight for the elimination of the colonial enclave generated a sovereigntist discourse that would encourage movements that emerged, especially from the popular groups of the population for the recovery of territorial unity. As a result, a revisionist phase of the 1903 treaty began, which would first seek the elimination of Panama's Constitution as a protectorate of the United States with the signing of the Arias-Roosevelt Treaty in 1936. It is also vital to mention that, even though the 1955 Treaty had transitist dispositions, it employed sovereigntist arguments, reflected, for instance, in the phrase “Neither millions nor alms, we want justice”, regarding the right of Panamanians to participate in the economic benefits that the Canal Zone provided until then only to the US.

This revisionist movement would turn into another abrogationist movement of the 1903 Treaty. It stemmed precisely from student groups from around the late 1940s that demanded the elimination of the military bases outside the Canal Zone –such as the one in Río Hato– and which would culminate with, as known in the Panamanian history, the “Day of the Martyrs”, when 22 students were murdered by the US army in 1964 stationed in the Canal Zone. Panamanian President Roberto Chiari, a member of the transitist

group, supported the students' sovereignty movement, broke diplomatic relations with the US, and supported the declaration of January 9 as a day of national mourning. Although in the short term, a commission of the Organization of American States (OAS) investigated the case and did not determine any motion on Panama's request to blame the US for aggression, in the medium and long term, it meant its acceptance to negotiate a new treaty that would revert the Canal Zone to Panama.

In his speech delivered in the 1970s, General Omar Torrijos Herrera emphasized the dissatisfaction of the Panamanians in the face of the canal problem, where the territory's sovereignty gained greater attention. The negotiation for the recovery of the colonial enclave, classified as the 'Fifth Frontier', incorporated the ideas developed by the student movement since the end of World War II. However, the profits that the transitist movement granted to the State were also included. For instance, the infrastructures of the Colon Free Zone were expanded, a new International Airport was built in Tocumen, and a Banking Center was established in Panama. It was noteworthy in Latin America as the US dollar had been a legal tender since 1904.

On a sociopolitical level, changes emerged, having been a turning point between two governance models: on the one hand, faced with an oligarchic organization highly divided into family-partisan groups, which aspired to access the economic benefits of the State through elections of dubious transparency, the military government appealed to the community representation of the corregimientos to legitimize its mandate.

On the other hand, tied to the prohibition of political parties, a style of governance was given to the military group, which in addition to having allowed successful negotiation for the transit zone, also created an environment of participation for economically and ethnically excluded groups.⁵

Being the return to a partisan democracy in Panama a condition by the US for the signing of the 1977 Treaty, by which the reversion of the territory of the Canal Zone was accepted in 1979 and of the Panama Canal on December 31, 1999, General Torrijos did not doubt his popularity, devising a plan to withdraw the military to the quarters, and trusted that the construction of his State project would continue in the hands of civilians with the founding of the Democratic Revolutionary Party (PRD). Nevertheless, his assassination on July 31, 1981, blocked that project of democratic transition. Contrary to this guideline, the resulting military leadership, led by Generals Rubén Darío Paredes and Manuel Antonio Noriega, conspired to control the country for the next eight years.⁶

Impact of the US invasion before the reversion of the Panama Canal

These events constituted the prelude to the US invasion of Panama on December 20, 1989, fact that impacts to such an extent that represents the beginning of a new stage of study in Panamanian history, a moment of imbalance in the construction of nationality.

Mas (2020) argues that, in the 1970s, the movement led by Torrijos was a slow response to creating a “State of National Democracy” in Panama, following what was proposed in the 1960s by the States that formed the Organization of Non-Aligned Countries. However, he also clarifies that the policies carried out in these countries

succeeded in decolonization, but were shelved after the expulsion of the colonialists; For this, the bourgeois part of the alliance relied on the new neocolonial doctrine, merging its interests with the transnationals and reversing the internal democratic process, excluding the popular social classes from the government (Mas, 2020, p. 12).

In Panama, the “democratic movement for national liberation” was linked to the recovery of the US colonial enclave of the Canal Zone, together with a project of national transformation, when the transitist and sovereigntist groups unified in the 1970s. However, once Panamanians recovered the transit zone in the early 1980s, the setback of the policies intended to transform society began. This impediment occurred due to the collusion of the partisan elites, with a strong inclination to the transitist paradigm, a military leadership without patriotic sentiment and imperialism from the United States.

Nevertheless, General Noriega's refusal, in December 1985, to cooperate with US plans to combat the communist movement in Sandinista Nicaragua openly⁷ broke this alliance and accelerated the decision to dismiss who, until then, had been a key figure in its geopolitics. If the US government, under the presidency of George Bush (father), argued that the objectives of the invasion were the protection of the lives of US citizens residing in Panama, the defense of democracy and human rights in Panama, and the capture of Noriega to face the crimes of drug trafficking,⁸ the Santa Fe II plan (1988) already establishes how the maintenance of the leading US military bases in Panama and the restructuring of the Panamanian military institution was part of the planning to be executed by the US government in the 1990s.⁹ In this line of action, the destruction of the Defense Forces, because of an invasion, would give the US the excuse to maintain its military bases in Panama since the country would be unable to defend the Canal and comply with the 1977 Treaty.

The rupture in the alliance between the Panamanian military institution and the US government led to economic losses for the transitist group, which, together with its total hostility towards Noriega, who projected himself as the heir to the liberationist policies of General Torrijos to defend himself, back then, against the US media attack, ruled out any favorable movement for the resolution of the national crisis. The transitist groups, receiving logistical support from the US since June 1987, led the creation of the Cruzada Civilista, a movement that received the support of most of the population, opposed to the authoritarian regime imposed by Noriega for having violated his aspirations to establish a democratic regime in the 1984 elections.

After the invasion, the US geopolitics merged with the interests of the Panamanian rulers, even though prior to this, they had agreed on a situation of mutual benefit with the Panamanian military. Once the latter disappeared from the political view, they had full decision-making power at the economic level, as they reached an agreement with the powerfully imperialist interests at a time when the Cold War was coming to an end. This alliance became evident when the winning candidates in the May 1989 elections –Guillermo Endara, Ricardo Arias Calderón, and Guillermo Ford– took the oath of office on December 20 at a US military base stationed on the banks of the Canal, while the invasion of the country began.

This situation is even more evident in Report No. 31/93, Case 10 573, dated October 14, 1993, of the Inter-American Commission on Human Rights of the Organization of American States, which refers to the claims presented on October 10, May 1990, by Panamanians representing the victims and injured by the 1989 invasion, establishes that:

19. The Government of the United States asserts that President-elect Endara and his Vice Presidents welcomed the intervention when it was announced to them before the additional deployment of US troops came ashore and that President Endara reiterated his welcome after his oath (IACHR, 1993).

Since then, this governing group began the work of erasing from the collective memory the unifying process undertaken by the government of General Torrijos, and it has been proposed that the triumph of the recovery of the transit zone for Panamanians in the 1970s be forgotten in the national imagination, superimposing the illegal actions of General Noriega in the 1980s. Regardless of the achievements, the two decades have been labeled “narco dictatorship”. It was a lost and negative period in our history, so the 1989 invasion represented a liberation and the beginning of a national economic bonanza, evading the discussion of the alternatives to efficient citizen participation once the national military institution was eliminated and the State was subordinated to a foreign one.

The 1989 invasion also marked the beginning of the United States' policy worldwide to infringe on the right of self-determination of people using drug and arms trafficking as an excuse, as happened with Panama when accusing the de facto ruler in federal courts of these crimes, while terrorism has been added as a cause for intervention, nowadays.

In addition, it demonstrated the resurgence of ideologies that were considered outdated. Rosenfeld (1975) declared that the elimination of the Canal Zone was perceived as necessary by groups in charge of US foreign policy since it affronted the pride of Latin America by being reminiscent of the Big Stick policy. A reading of the US national anthem illustrates the US government's willingness to violate international laws by basing its war action on what was promulgated in Manifest Destiny when the invasion of Panama was called Operation Just Cause.

Blest with vict'ry and peace, may the Heav'n rescued land Praise the power
that hath made and preserved us a nation! Then conquer we must, when our
cause it is just, And this be our motto: 'In God is our trust'.

Ten years earlier, in 1979, the Canal Zone disappeared when it reverted to Panama. However, US conservative sectors still conceived it as their territory, and the discussion of sovereignty over it caused conflicts within the US because it was seen as a weakness in their hegemony, especially in a period when the Vietnam War had just ended, and trouble in the Middle East was looming. For example, in 1976, the future President Ronald Reagan, in the primaries of the Republican Party, declared that the Canal Zone was a sovereign territory of theirs, as were Alaska and all the states created after the "Louisiana Purchase". Even though President Ford's representatives explained that such a statement was the product of a misinterpretation, he received the support of several organizations in his country.

The US negotiator of the treaty, Ellsworth Bunker, also clarified that the ten million dollars paid to Panama in 1903 were not for the purchase of the Canal Zone, but for the rights granted in the treaty to build it, so unlike Alaska and Louisiana, the US did not legally possess sovereignty over the Panama Canal Zone. However, members of Congress continued to block the possibility of negotiation, with the approval of amendments that would allow a new treaty with Panama.¹⁰

After five generations of Americans had received the affirmation that the Canal Zone was a land of their own and necessary for the nation's security, it is not surprising that its (re)conquest was promoted as a 'just cause' done in the name of the Lord.

The sovereigntist and transitist paradigms today

After the 1989 invasion, a new phase began in Panamanian political, economic, and social life, which overlapped with the implementation of neoliberal policies and globalization in the 1990s, revitalized with the perception of the triumph of the capitalist economic system after the Cold War.

On the political level, in the first twenty years of the post-invasion period, a bipartisan democratic regime of alternating government between the Panameñista Party (PA) and the PRD was established in Panama. Although a nationalist approach is present in the ideological foundations of both parties, inspired by their founding leaders, they may be outdated to the real needs of the current population. Historically, the nationalism of the PA originated when fascist regimes were internationally accepted as an efficient solution for the people. However, these regimes do not translate as a progressive vision now. On their side, the PRD calls for a Bonapartist state model that, in today's globalized world, is not the priority of the Panamanian governments. In addition, the credibility of this political party was further reduced when the measures dictated by neoliberalism were implemented in Panama during their periods of government.

If the alternation of political parties can be positive in modern democratic governance, in Panama, it has been one of the reasons social policies cannot prosper while only the economic ones have been contemplated as State policies and not of governments.

In the last years of the post-invasion period (2009-2022), a new political party, Cambio Democrático (CD), was introduced into the panorama. Alternating with the PA and the PRD, it has increased neoliberal policies, neglecting elementary duties and rights of governments towards their citizens. Among them are the policies of transparency and the duty of quality education, which, added to the growing lack of institutionalism of the State, has resulted in a growing detachment of the population towards national affairs.

In this period, the flagrant subordination of the functions of the former Panama Defense Force to the US security apparatuses also stands out at an international level, especially at a time when it described itself as the only power in a unipolar world. In this regard, Marco Gandásegui (2017) indicates:

During the government of President Endara (1989-1994), the US militarily occupied the country. He kept strict watch over the reorganization of the National Police and even over the country's finances. In 1995, Washington proposed to the new government of President Pérez Balladares (1994-1999) its interest in installing the Multilateral Anti-Drug Center (CMA) at the Howard air base (p. 8).

Although exploratory talks between the US and Panamanian governments began in 1995, it was in July 1997 that the official announcement regarding preliminary agreements in the negotiations

for the creation of the Multilateral Anti-Drug Center (CMA) at the Howard air base was made. Under civilian control but with a robust military component, which would not carry out surveillance operations outside participating countries, it would operate with the support of US Customs, Coast Guard, and anti-drug officials.

However, the US military presence in Panamanian territory beyond December 31, 1999, found open opposition from sectors of Panamanian civil society, especially those affected by the neoliberal policies implemented by the current government. These included teacher associations, union members, and university academics, who argued that the CMA violated the provisions of the 1977 Torrijos-Carter Treaty regarding the withdrawal of US troops stationed in Panama.¹¹

As it happened in the 1970s, this popular movement was complemented by the ideas of the economically dominant groups, and negotiation for adequate integration of the areas adjacent to the

However, the opposition to the CMA included labor organizations, left-wing university organizations, teachers, and agricultural producers, which constituted “Organizations Against Military Bases” and “Frente Panamá Soberana”.

Panama Canal began in 1994.¹² The blend of both positions motivated the Panamanian government to terminate the CMA negotiations, arguing that its profits were not beneficial to the country's interests.

Once the usufruct of the transit zone was obtained, the commercial governing class was willing to cede part of the country's sovereignty. Faced with the failure to maintain a military base on the Isthmus after the year 2000, the US directed its efforts to reinforce the points signed on March 18, 1991 –one year and three months after the invasion when the country was still occupied by the US military forces– through the Arias Calderón-Hinton Agreement, by which the US Coast Guard would provide support and assistance to the vessels of the Republic of Panama of the National Maritime Service (SMN) of the Ministry of Government and Justice. So that the Panamanian laws in the waters under its jurisdiction complied with efficiently, preventing illegal activities, such as drug trafficking, unregulated fishing, and the transportation of smuggling.

On February 5, 2002, the Salas-Becker Agreement, or “Supplementary Agreement,” was signed between the Government of Panama and the Government of the United States of America on the support and assistance of the United States Coast Guard to the National Maritime Service of the Ministry of Government and Justice”. Like the Arias Calderón-Hinton Agreement, it has the particularity of having been signed by the Panamanian Minister of Government and Justice at the time, Aníbal Salas –not by the

Minister of Foreign Affairs– and the interim US Chargé d'Affaires, Frederick Becker. The Complementary Arrangement would continue the support and assistance of the US Coast Guard to the National Maritime Service (SMN) of the Ministry of Government and Justice “in the fight against illicit maritime and air traffic of narcotics and other related crimes, into the greatest possible extent, compatible with the available resources for law enforcement and the priorities related thereto” (Article I), and to fulfill this purpose, how the US Coast Guard was authorized to patrol and pursue suspicious vessels in the waters and airspace of Panama is detailed quite clearly; in addition to searching them, seizing property, detaining people, and authorizing the use of force, including the use of weapons.

It was thought that The Salas-Becker Agreement granted the country's sovereignty as the Hay-Bunau Varilla Treaty did in 1903. Consequently, it was immediately sued for crimes against the international personality of the State and abuse of authority for violating the Convention of Vienna on the Law of Treaties. This measure arises because the Minister of Government and Justice does not have the “necessary and concurrent powers to bind and compromise the sovereignty, population, or the territory or national jurisdiction of the State of Panama”. Said Convention considers that “the Heads of State, Heads of Government and the Minister of Foreign Affairs represent their State for the execution of all acts related to the celebration of a treaty”. In addition, the complainants added that the attribution should be approved or disapproved by the Legislative Assembly, as provided by the Political Constitution. For this reason, it was requested that Minister Salas be arrested, that his arrest be ordered, and that he be punished for “the commission of crimes against the international personality of the State, abuse of authority and that, consequently, the Complementary Agreement between the Government of the Republic of Panama and the Government of the United States of America be repealed” (Supreme Court of Justice, Third Administrative and Labor Litigation, 2002).

Considering the foregoing, the Court ordered,

Remind the plaintiffs that the act signed by Minister Salas was an extension of the agreement signed in March 1991. Therefore, his actions do not constitute an act that tends to “undermine or submit the sovereignty and independence of the Panamanian State to the Government of the United States”.

The fight against crimes such as international drug trafficking, illegal fishing, and smuggling has acquired different means or forms to achieve its perpetration, and the agreement seeks to repress the commission of these punishable acts through cooperation.

Minister Salas's action does not constitute an act that tends to “undermine or submit the sovereignty and independence of the Panamanian State to the Government of the United States”.

The Supreme Court of Justice did not accept the continuation of the criminal complaint filed against the Minister of Government and Justice and ordered the file to be archived.

However, the Salas-Becker Complementary Arrangement was sued as unconstitutional again on June 11, 2008; this time by the President of the National Assembly because it violated several articles of the Constitution, among which could be mentioned:

Violation of Article 184 of the Constitution is noted since it is an international agreement and should have been concluded with the involvement of the President of the Republic and the respective Minister of State and not only by the Minister of Government and Justice.

Violation of Article 159 of the Constitution is noted since it is stipulated that any agreement signed by Panama must be submitted for approval to the National Assembly.

Violation of Article 21 of the Constitution is noted since allowing “Panama to renounce its jurisdiction over Panamanian authorities decline their jurisdiction in favor of the United States.

Violation of Article 24 of the Constitution is noted since “The State may not extradite its nationals nor to foreigners for political crimes” when establishing the possibility that the Panamanian authorities decline their jurisdiction in favor of the United States.

It would be on June 20, 2019, when the Supreme Court of Justice ruled that the Complementary Agreement was not unconstitutional. Seven judges voted in favor, and two saved their vote, based on Hearing No. 13 of April 15, 2008, of the Administration Attorney; the ruling made in 2002 on the constitutionality of the Complementary Agreement for being a continuation of the Arias Calderón-Hinton Agreement, signed by Panama and the United States in 1991.

Although the transitist paradigm has had a more significant predominance in the thirty years after the 1989 invasion, given that it is associated with the interests of the economic elites in the different governments, the sovereigntist paradigm has shown its presence in sectors of the population. First, it should be mentioned that on May 10, 1990, the victims, identified as Panamanian civilians and non-citizens residing in Panama, presented a claim to the Inter-American Commission on Human Rights (IACHR) against the indiscriminate

military action by the US armed forces during the invasion of Panama in December 1989, where they suffered the death of family members, personal injuries, and destruction of their homes and property. The complainants reported violations to the Charter of the Organization of American States, the Charter of the United Nations, and the Geneva Conventions. They requested the IACHR that the United States compensate the Panamanian victims who suffered from the illegal intervention in Panama and demanded the withdrawal of the US military forces from Panama. The US Government replied to the plaintiffs that they had not exhausted domestic remedies in Panama and in the US and that the IACHR is an “advisory body” of the OAS, without the power to “judge issues and allocate corrective measures that exceed the powers that have been granted to it”, concerning the US compliance with the OAS and UN Charters.

The petitioners disagreed with the statement that the commission was only an “advisory body”, but instead that it is called upon to “protect human rights in all situations, including those of armed conflict” (Point, p. 54). Necessary for compliance with what was agreed by the IACHR: “Although the United States has not ratified the Additional Protocols, the norms of Protocol I, applicable to the case, are recognized as customary law. As a signatory to the Protocols, the United States must refrain from acts that nullify the purpose of the Protocols” (Point, p. 57).

Given these and other statements, and contrary to what happened in 1964 when the OAS did not determine the Panamanian motion, the IACHR resolved that the petitions presented by the plaintiffs were admissible, previously explaining, referring to the United States, that,

17. In conclusion, regarding the fundamental issues raised, the commission is competent, within its powers, to receive and consider petitions condemning the violation, by a member State that has not ratified, of rights recognized in the American Declaration of the Rights and Duties of Man (IACHR, 1993).

To understand the evolution of the sovereigntist paradigm in the country, it should also be mentioned that between the presentation of the lawsuit before the IACHR in 1990 and the 1993 report, President Bush (father), en route to the Earth Summit in Rio de Janeiro, visited Panama City on June 12, 1992. In Panama, he aimed to present himself as the winner in one of the events that stood out as the first military success during his administration, as a prelude to the end of the Cold War. With this, he sought to influence, above all, US citizens a few months before the presidential elections, where he would seek re-election. However, the riots of the population affected by the invasion caused the launching of tear gas in the areas near the square where President Bush's presentation would take place, causing images of panic and violence, both in the leaders and in public. At the national and international level, and far from being considered the

savior of democracy and human rights in Panama, his actions were the cause of resentment and discontent by an essential part of the Panamanian population.

On the other hand, 27 years later, on December 6, 2017, the IACHR approved Merits Report No. 169/17 and recommended that the United States “comprehensively make reparation for human rights violations, both tangible and intangible”. However, the US objected to the recommendation to make reparations to civilians who suffered life, injury, or property damage during Operation Just Cause, insisting that, following the American Declaration or customary law, there be a right to compensation for persons during a lawful international armed conflict. The US indicated that they had provided financial assistance to the Government of Panama for the reconstruction and recovery of the country and had met with the Comisión 20 de diciembre de 1989 to identify areas in which they could cooperate.

On August 16, 2018, the IACHR forwarded Merits Report (Final) No. 70/18 to the United States and requested that the US report on the measures adopted to comply with the recommendations within one month. However, no response was received. So, on December 3, 2018, the IACHR released a report stating that the US:

failed to take sufficient measures to alert and evacuate civilians. was responsible for violating the rights to life, integrity, and personal security enshrined in the American Declaration of the Rights and Duties of Man to the detriment of the people who lost their lives and those injured.

violated the right to personal property enshrined in the American Declaration by affecting movable, immovable, and other pecuniary property of a civil nature in different popular neighborhoods of Panama City.

breached his obligations to respect and guarantee the right to justice, truth, and reparation following the American Declaration to the detriment of the victims.

At a national level, the government of Panama created the Comisión 20 de diciembre de 1989 through Executive Decree No. 121 of July 19, 2016. Among its considerations, it complied with resolution 44/240 of December 29, 1989, of the United Nations Assembly, on the “Effects on the situation in Central America of the military intervention of the United States of America in Panama” in which the intervention in Panama was deeply deplored as a flagrant violation of international law and the independence, sovereignty, and territorial integrity of States.

The commission would have a term of two (2) renewable years to

contribute to the clarification of the truth and full knowledge of the number and identity of the victims, as well as of the violations of international human rights law and international humanitarian law, that occurred in the Republic of Panama from December 19, 1989, until the withdrawal of the invading armed forces of the United States of America (Article 1).

One of its functions would be to “evaluate the recommendation to declare a day of mourning, national reflection or other forms of memory and dignity, every December 20” (Point 3 of Article 6).

Despite having carried out exhumations of mass graves to identify the identities of the corpses, by Executive Decree No. 107, dated June 10, 2021, it is recognized that the work had been extensive, which is why they extended the deadlines three times (a. April 1, 2019; b. July 20, 2020; and, c. July 20, 2021); and because budgetary and sanitary limitations of the country have affected the work of the commission, a new extension of eighteen additional months has been granted, until January 20, 2023 (Article 1).

Thus, by October 2021, the exhumation of eight bags of bone remains was reported in the Monte Esperanza cemetery in Colón, which was found under other graves. On the other hand, in the Jardín de Paz in Panama City, thirty-three bags of unidentified remains were pulled and taken to the morgue to be compared with other relatives of the disappeared. On their side, the President of the Commission reported that as of October 2020, 350 victims of the armed intervention of the United States had been identified and that, contrary to popular belief, the victims were mostly civilians who suffered the consequences of the violation of war protocols.

Given the annoyance that the 1989 invasion continues to have, it is essential to mention that on March 31, 2022, Law 291 was enacted, declaring December 20 as a day of national mourning in commemoration of those who fell that day, recognizing that the invasion of Panama is an event that any Panamanian government should never justify.

Conclusions

The hanseatic project has constructed the paradigms that, in different ways, have been present in Panama's historical periods: sovereignty and transitism have built the Panamanian nation up to the present. A historical review reflects that the balance of both paradigms in the country, as it happened in the 1960s and 1970s, can mean the establishment of projects that comprise better opportunities in the future.

However, since international economic alliances have more significant benefits than internal social ones in the country, a large part of the population has felt the exclusion, conceiving that the profits from the recovered area, by and for all Panamanians, have not

transformed their previous condition, which in some cases reaches extreme poverty. If the sovereigntist paradigm of the hanseatic project has presented a clear political and economic national plan for many Panamanians, these have not been long-lasting because their implementation requires long-term planning, and it has not been achieved because no citizen participation oversees compliance with State policies beyond electoral periods. For its part, the transitist paradigm focuses its efforts on the transit zone and not on the entire country, with a high dependence on the global situation occurring in parallel. However, the benefits achieved by the elites in the short term motivate the conservation of the populist political system, which prevents the change of the excluding social structure since, despite the dependence on the global economy, its control of the State reduces the losses while new favorable situations occur in the international market. The ratification of international conventions that question Panamanian sovereignty is a setback accepted by the current dominant transit group, which guarantees their participation when new opportunities occur.

The lack of participation of most of the population in a national project jeopardizes the country's relevance as a safe strategic point for globalizing logistics. It can lead to a social explosion when governments feel ripped off by perceiving that their only vision is the construction of a country for the benefit of the world and the interests of the economic elites, preventing the construction of their own national identity based on the balance of paradigms. The preceding is related to the lack of patriotic and modern education, which educates citizens about their rights and duties, rejects corruption and populism proposed by current politicians, and at the same time prepares individuals to actively immerse into the globalized world, of which Panama is undoubtedly a part.

Just as the establishment of January 9 as a national mourning day by a transitist-oriented president served to bring both groups in favor of the reversion of the Canal Zone in the 20th century, the declaration of December 20 as a national mourning day could catalyze the renewal of the hanseatic project. In addition to continuing the existing economic growth program, it could plan and execute a permanent and independent State policy in a globalized world that could answer to the demands for justice, respect, and equality of the population so it becomes the foundation of the sense of belonging and Panamanian identity in the 21st century.

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Notes

1

Castillero Calvo, A. (1961).

2

Beluche, O (2003).

3

By the Hay-Bunau Varilla Treaty, the US guaranteed and would maintain the independence of Panama (Article 1). In exchange, Panama ceded, in perpetuity, the use, occupation, and control of a 10-mile zone wide to the US (Article 2), granting the US all the rights, power, and authority as if they were sovereign of this territory (Article 3). In addition, the US was granted the right and authority to maintain public order in the cities of Panama and Colon, when in the US's view, Panama was not capable of doing so (Article 7).

4

With the Treaty of 1903, the authorities of the Canal Zone would administer the ports of Panama and Colon.

5

Pizzurno (2011, pp. 243–244) does not cease to classify this period as a military dictatorship but recognizes that for the recovery of the transit zone, the existence of other identities in the Panamanian territory in addition to the Hispanic-descendant, such as the Afro-Caribbean, Chinese and indigenous until then discriminated against needs to be highlighted.

6

Navas (2015) explains how “Colonels Rubén Darío Paredes, Armando Contreras, Manuel Antonio Noriega, and Roberto Díaz Herrera agreed in March 1982 on the distribution and rotation of the political power and military leadership. In that order of priority, the first would occupy the presidency while the remaining three would

occupy the military leadership until 1988. (...) The temporary alliance of the four did not pursue the purpose of ensuring social achievements or defending compliance with the Torrijos Carter treaty and its decolonization program” (pp. 221–222).

The pact of the four colonels would not be fulfilled. In December 1982, Colonel Contreras was forced to retire, and on July 31, 1983, Paredes withdrew from office with the commitment to be supported in his candidacy for the presidency by the National Guard. With Noriega in control, he withdrew his support, transformed the National Guard into the Defense Forces, and used the PRD to perpetuate its power with a democratic façade, triumphing in the 1984 elections by a very narrow range, provoking the opposition's denunciation of fraud, which the Reagan government ignored, being the most reliable candidate placed by Noriega to their interests.

7

In December 1985, Rear Admiral John Pointdexter, President Reagan's National Security Advisor, met with Noriega and demanded that Panama leave the Contadora group, that it be granted facilities for the training of the Contras, and requested that Panama begin military provocations against Nicaragua and thus, the US would be justified to intervene. Noriega's refusal earned him an outright threat (Navas, 2015, pp. 228-229).

8

It is pertinent to indicate that, in those years, prominent officials of the US government, with whom Noriega maintained direct contact, were accused in the Iran-Contra case of these same crimes.

9

Bouche, L. F., Roger W. F. and David C. J. (Eds.). (1988) "Noriega's ouster and the holding of elections will not be enough to establish a democratic regime in Panama. The US will need to focus on the full range of issues involved in a democratic regime: reformation of the Panamanian Defense Forces, support for an independent judicial system, and restoration of the economy will be essential.

In the 1990s, the next administration will have to face serious problems that have yet to be addressed. Banking laws must be revised to prevent the country from sinking once again into drug cartel-based corruption. The Panamanian Constitution should be amended to allow for the extradition of citizens guilty of crimes in third countries, although it would be preferable if a streamlined Panamanian judicial system assumed this task.

On top of that, the US and Panama, once a democratic government is in power, must start planning seriously for the proper administration of the Canal, which will soon require a significant and expensive overhaul. At the same time, discussions of a realistic defense of the Canal after the year 2000 should begin. Those conversations should include the retention by the US of a limited number of facilities in

Panama (mainly the Howard Air Force Base and the Rodman Naval Station) for adequate force projection throughout the Western Hemisphere (Highlighted section is ours).

10

Hudson, Richard (May 16, 1976). Storms over the Canal. The New York Times.

11

Reyes (1997). Even though the CMA obtained the approval of some Panamanian institutions and politicians, it needed to have the agreement of its members. Even the PRD, the governing party, showed division against an anti-drug center, which, even though civilians ran it, was still conceived as a continuation of the US military bases that violated the provisions regarding their withdrawal from Panama in the year 2000. In addition, the mission of the CMA, to serve as a center to prevent drug trafficking, was not accepted since it was considered that drug trafficking would not stop.

12

The Bambito and Coronado meetings, held before and after the 1994 elections, proposed the strengthening of national independence and democracy, the Panamanian administration of the Canal, and the improvement of administrative efficiency and judicial independence, which resulted in unanimous approval by the Legislative Assembly of the Panama Canal Authority Law in 1997. However, as in the 1970s, once the Canal administration was reversed to Panama, the other national objectives did not materialize.

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