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La primera universidad republicana de América Latina y los derechos sociales: análisis desde la obra de Bolívar y Sánchez Carrión

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Abstract: The emancipation of South American countries was aimed at achieving freedom and dignity for peoples oppressed for three centuries and vindicating their rights. In this sense, the article is the result of a study whose objective was to analyze the social rights in the thought and work of the Liberator Simón Bolívar and his general minister José Faustino Sánchez Carrión, as well as their transcendence in time. Social rights are those that are aligned with human dignity and linked to the achievement of substantial objectives such as access to work, health, education, justice, among others. Documentary analysis shows that these rights were originally consigned in 1824 by the Liberator and his minister at the time of founding the first republican University in the final phase of the emancipation of Peru and South America, but were gradually legalized in the social constitutionalism of many countries during the twentieth century, which notes its importance in the line of achieving human dignity. Social rights had as precursors the aforementioned heroes of freedom, defenders of human dignity and visionaries who were ahead of their time.

Keywords: Social rights, freedom, dignity.

Resumen: La emancipación de los países suramericanos estaba orientada a lograr la libertad y la dignidad de los pueblos oprimidos durante tres siglos y reivindicar sus derechos. En tal sentido, el artículo es fruto de un estudio cuyo objetivo fue analizar los derechos sociales en el pensamiento, la obra del Libertador Simón Bolívar y de su ministro general José Faustino Sánchez Carrión, así como su trascendencia en el tiempo. Los derechos sociales son aquellos que están alineados con la dignidad humana y coligados al logro de objetivos sustanciales como el acceso al trabajo, la salud, educación, justicia, entre otros. Del análisis documental se observa que estos derechos fueron consignados primigeniamente en 1824 por el Libertador y su ministro al momento de fundar la primera Universidad republicana en la fase final de la emancipación del Perú y América del Sur, pero gradualmente se legalizaron en el constitucionalismo social de muchos países durante el siglo XX, lo que hace notar su trascendencia en la línea de alcanzar la dignidad humana. Los derechos sociales tuvieron como precursores a los citados héroes de la libertad, defensores de la dignidad humana y visionarios que se adelantaron a su época.

Palabras clave: Derechos sociales, libertad, dignidad.

Introduction

The 19th century marked a period of accentuation of the struggle for independence in Latin America, a period marked by a series of political and social changes. Spain was diminished by the socioeconomic crisis, the invasion of the Napoleonic armies, the deterioration of the absolutist monarchical model and the progressive generalized discontent in the colonies. In an effort to remedy these ills, the Constitution of Cadiz of 1812 emerged, whose purpose was to introduce progressive reforms to preserve the model and the submission of the colonies to the power of the metropolis, which ended in a categorical failure because of the growing yearning of the peoples to achieve their freedom and the advantageousness of certain reforms stipulated in that Magna Carta.

Aspects of the Cadiz Charter, such as the annulment of the Inquisition and the freedom of the press, accelerated the American independence movement. In the case of Peru, the separatist current gained more strength as the reproach to the old monarchic regime became more frequent and the liberal postulates that were propagated in different media such as the *Mercurio Peruano* gained followers among men and women of the different social strata. And the bet for a republican model was achieved from media such as *Correo Mercantil*, *La abeja republicana* and *El tribuno de la República peruana*, from where José Faustino Sánchez Carrión had a strong influence.

Like the emancipation of the various colonies in the Americas, the peoples had to regain their dignity and acquire their rights. The urgent task after breaking the chains of opprobrium was to achieve social justice through the protection of rights, especially those of the most vulnerable people, overcoming the inequality inherited from colonialism. In this sense, the role played by Bolívar and Sánchez Carrión in the final stretch of the libertarian feat had much to do with social vindication, the dignity of the people and the proposal of social rights, which over the years have been the subject of constitutionalization in Peru, Latin America and the world, as well as addressed in supranational regulations of the United Nations (UN). In this sense, both leaders of the Peruvian and South American emancipation have become precursors of social rights in Peru, America and the world.

In the context of the bicentennial of the Independence of Peru, the social rights that were originally enunciated by the eminent Liberator and his self-sacrificing Minister General in "the most difficult circumstances of the Republic" gain importance. In this sense, it is imperative to analyze these rights in the thought and work of both characters, from the founding of the first University of free America, and to glimpse their transcendence in time.

Materials and methods

The article is the result of a theoretical documentary study based on an intentional literature review, emphasizing the genesis of social rights

and their development in the historical spectrum. The analysis of the information provided a panoramic view of the meaning of this type of rights since their consideration in 1824 by the Liberator Simón Bolívar and his minister José Faustino Sánchez Carrión, which will increase the existing theoretical corpus on these rights during the nineteenth century and their constitutionalization in the twentieth century.

Regarding documentary research, Alfonso (1994) considers that it is a systematic process of searching, collecting, organizing, analyzing and interpreting information related to a certain subject. Like other types of research, it allows the construction of knowledge. In this type of research, the following procedure was considered: Selection of the topic. In this stage, we proceeded with the exploration and gathering of sources on the topic of study, for which we resorted to reading and the respective file. Statement of the problem. At this stage, we tried to answer the questions: how, when, where and why did the phenomenon occur? The answers were the product of a broad knowledge of the subject, as a result of the review of various sources that have the respective information. This information was gathered from primary sources: articles and books.

Development of the process and results. In this stage, results were found as a result of the interpretation and analysis of the information. A draft was written in which the research findings were presented. At the conclusion of the draft, the summary and table of contents were prepared. In the final draft, the results and reflections reached in the research process were specified.

Results

José Martí, quoted by Gutiérrez (2005), presents a beautiful story about the image of Simón Bolívar:

They say that a traveler arrived one day in Caracas at dusk, and without shaking off the dust of the road, he did not ask where to eat or sleep, but how to go to where the statue of Bolivar was. And they say that the traveler, alone with the tall and fragrant trees of the square, cried in front of the statue, which seemed to move, like a father when a child approaches him. The traveler did well, because all Americans should love Bolivar like a father. Bolivar, and all those who fought like him for America to belong to the American man.... Bolivar did not defend with so much fire the right of men to govern themselves, as the right of America to be free. The envious exaggerated his defects. Bolivar died of grief of the heart, rather than of bodily ailments, in the house of a Spaniard in Santa Marta. He died poor, and left a family of towns.

This illustrative narration that sprang from the pen of a genius, synthesizes essential ideas around the image of the singular continental hero: his glorious emancipating work of the South American colonies and his existential drama, hated by a few, but glorified by multitudes. On the former, what better than the judgments of Rodó (1972): "Great in thought, great in action, great in misfortune, great to magnify the impure part that fits in the soul of the great and great to bear in abandonment

and death, the tragic atonement of greatness" (p. 11). 11); while, on the second, near to die in 1830, the famous Bolívar left a record of the bad actions: "I have been a victim of my persecutors, who have led me to the doors of the grave. I forgive them". (Álvarez, 1988, p. 378)

It is worrying some aspects of what was expressed by Martí, Rodó and Bolívar himself; but the analysis and judgment should be oriented to highlight the greatness of the thought and work of this illustrious leader, on a par with the thought and work of Dr. José Faustino Sánchez Carrión. Because to follow in the footsteps of these two notable figures is to exalt their emancipating work that dignified the people and revealed social rights for the first time.

To exalt the emancipating work of Simón Bolívar is also to see in retrospect the previous moments of his libertarian feat. It is to glimpse the good disciple, who before his master Simon Rodriguez swore an oath for the emancipation of America in Monte Sacro, Italy, quoted in 2004 by Bacacorzo, president of the Bolivarian Society in Peru:

I swear before you; I swear by the God of my fathers; I swear by them; I swear by my honor and I swear by my country, that I will give no rest to my arm, nor repose to my soul, until I have broken the chains that oppress us by the will of the Spanish power! (quoted by Campos, 1986, p. 42)

This oath, which marked the beginning of the end of the monarchy in many American countries, marked a new era in the life of the young Simón, as he became fully involved in political and military action after his return to Caracas. After liberating Venezuela, the victorious general traveled with his army through the plains and climbed the Pisba moor to Tunja on his way to Gran Colombia and also liberated it. He then moved on to Ecuador and crowned the victory in the battle of Pichincha on May 24, 1822. The victorious Caracas military man, for the independent peoples, was no longer the general, he was by justice the Liberator.

When the Liberator was in Guayaquil he received the visit of another titan of continental freedom, José de San Martín. As a result of the meeting that took place on July 26 and 27, 1822, the Protector of Peru left for the United Provinces of the Río de la Plata, leaving the task unfinished and the model of monarchic government that he tried to install in the land of the Incas by the hand of his collaborator Bernardo Monteagudo; although he had already proclaimed the solemn Independence of Peru on July 28, 1821.

Faced with the political chaos and the occupation of Lima by the royalists, on June 18, 1823, the Congress met the following day in Callao and agreed to move to Trujillo. It is in these circumstances that the image of the parliamentarian and main supporter of the republican model, Dr. José Faustino Sánchez Carrión, rises. He proposed to Congress to create "a military power with all the necessary faculties to save the Homeland" and on the same day of such proposal, the Parliament commissioned him together with the poet José Joaquín Olmedo to officially invite the Liberator of the North to come to Peru "authorizing the commissioners to confer to Bolívar the political and military power with the name of Generalissimo of Peru" (Benvenuto, 1930, p. 87).

The national representation had the conviction that the savior of three nations was the right one to seal the libertarian work of southern America.

Regarding the commissioned patriot, Chamané (1990) refers: "The forge of independence turned José Faustino Sánchez Carrión into the most determined promoter of a new model of State, which concentrates the nation in a single identity, that unknown institution was: the Republic" (p. 180). His proclamations in favor of freedom were signed by the hero as the "Solitario de Sayán", whom Raúl Porras Barrenechea named "Tribuno de la República Peruana" (Tribune of the Peruvian Republic) in honor of his strong defense of the republican system against the monarchic plan.

The Liberator, who at that time was in the old domains of the Guayas cacique, received the commissioners on June 19, 1823. The management of both emissaries was a success and marked a milestone in the destinies of men and peoples. On that date, Bolívar and Sanchez Carrion's intimate friendship germinated and both embarked on a long journey that ended with the laurel of the triumph achieved in the Pampa de Quinua, Ayacucho, on December 9, 1824. Only the ailments of the hero, which took him to his early grave on June 2, 1825, separated him from his dear friend and champion of freedom. But a short period of less than two years was enough for both geniuses to consolidate freedom, dignify the people and build the foundations of the nascent Peruvian Republic.

On the maritime voyage of Bolívar and the Tribuno to Lima, his fellow countryman Galarreta (2011) mentions:

During the steam trip from Guayaquil to Callao in 1823, Simón Bolívar had the opportunity to discover and appreciate in Sánchez Carrión, his traveling companion, not only the solid, organic and very broad culture of the illustrious huamachuquino, but also the strong doctrinaire structure of his thought and the exceptional qualities of a revolutionary strategist and statesman with an accurate and operative sense of reality and a far-sighted and projective historical vision. This is evidenced in Bolívar's resolution naming him sole general minister. (p. 30)

The Liberator and Sanchez Carrion arrived at the port of Callao on September 1st, 1823. Already in Lima, the Congress of the Republic named him "supreme authority" and commissioned him to defeat the royalist army. Bolívar decided to travel to liberated territories in the north of Peru. In Pativilca, with meridian luminescence and without any kind of meanness, he confessed to his teacher Simón Rodríguez: "You formed my heart for freedom, for justice, for what is great, for what is beautiful. I have followed the path that you showed me.... You cannot imagine how deeply the lessons you have given me have been engraved in my heart". This shows that, in the formation of Bolívar's liberal thought, the educational work of Simon Rodriguez had more impact than that of Andres Bello.

Bolívar chose to settle in the northern city of Trujillo, the first departmental capital that proclaimed its independence in 1920. It was considered as the strategic place to organize the patriot army and became the new capital of Peru. In this city he created, due to the demands of

the war, the position of general minister of the Business of the Republic of Peru, in which he gathered the three ministries established in article 82 of the first Political Constitution of 1823. So much so that by decree of March 26, 1824, issued in Trujillo, he appoints Sanchez Carrion as sole minister. This designation reveals the degree of trust and explicit recognition of the talent and principles of Dr. Sánchez Carrión. Both top government officials, one military and the other civilian, carried out an itinerant administration. Together with the Army and the Liberator, "he trotted on a mule as an improvised soldier, thinking of the freedom of his homeland" (Villavicencio, 1955). (Villavicencio, 1955, p. 198).

Bolívar's recognition of his minister and immediate collaborator is evidenced in the letter to Santander of February 23, 1825, in which Bolívar referred to him: "Mr. (Sanchez) Carrion has talent, probity and boundless patriotism" and Valdiviezo (1989), about Sanchez Carrion emphasizes: "None of our heroes ever exercised greater influence in the Republic, he was its creator and therefore he left a lasting mark, thanks to the fact that he was a politician of vocation" (p. 7). Then, formally, the consolidation of independence fell on the shoulders of two titans, responsible for military, political and administrative power. It was time to organize the army and organize the State. When he had a consolidated army, Bolívar left Trujillo and climbed the inhospitable Andean mountains to Huamachuco, the hometown of the republican Sanchez Carrion. The idea was to acclimatize the soldiers in the northern Andes to then go after the royalist army that was in the southern Andes, with the certainty that the final battle of the triumph would be fought among the pampas, cliffs and ravines of the rugged Andean geography. While the minister was still dispatching from Trujillo he made the Superior Court of Justice of this city work, because as a lawyer he knew that a free people should have access to the precious good of justice.

In Huamachuco the Army was reinforced and they marched to the south to the encounter of the royalist side, following the route of horseshoe roads between plains, summits and snowy. The first encounter took place in the Pampa de Junín on August 6, 1824 with a patriot victory. Further south, in the Pampa de la Quinua in Ayacucho, American independence was sealed on December 9 of the same year. Basadre (1981) highlights Bolívar's leadership: "Without the Liberator, the decisive triumph of the patriots would not have been possible" (p. 22). Meanwhile, Robles (2004) highlights the contribution of Sánchez Carrión: "Certainly, Bolívar's participation was decisive in the final campaign, but without the organizational support of Sánchez Carrión, the triumphs of Junín and Ayacucho, as well as the government actions of the time, would not have achieved the success they had or perhaps would not have occurred" (p. 51).

Indeed, the greatest efforts to consolidate the emancipation and the Republic came from the Liberator and his general minister. On the subject, Villarín (1999) states that:

Bolívar professed a sincere, indestructible republicanism, at a time when the most educated politicians, the old nobles, the proprietary

classes, the most conspicuous members of the military caste and almost all the great leaders of the revolution in Buenos Aires, Chile, Peru and Colombia were monarchists. Bolivar, almost alone, maintained firm, against the will, against the interest and prejudice of all, the unwavering opposition to being king and to others being king in the countries liberated by him. (pp. 68, 69)

Now, it is necessary to relive a historic date for the new Hispanic America: May 10, 1824. On that distant day, after holding a Council of War at the General Headquarters in Huamachuco and before mounting his nag to head for the southern Andes, the Liberator signed the decree founding the first Republican University of Free America and his illustrious minister countersigned it. This glorious act for Peruvian and American university education was a reward for the patriotism, commitment and brilliant action of the people of Trujillo and the north in the cause of independence.

The transcendence of the founding decree of the University, "by the fiery ray of Bolivar's sword and by the redeeming light of intelligence, symbolized in the fiery patriotism of Sanchez Carrion" (Centurion, 1981, p. 17), in the framework of the article, is in the tenor of the first of its three recitals, which are set forth below:

- That, according to art. 184 of the Political Constitution of the Republic, there must be Universities in the Departmental capitals, as one of the most effective means of promoting public instruction, on which the support and security of social rights depend to a great extent;
- That, nevertheless, of the population of the Department of Trujillo, there is not for all teaching, more than that which can be acquired at the cost of much time and sleeplessness, in the Seminary of its Capital;
- That, the provinces of the aforementioned department deserve much from the homeland, for their loyalty to the cause and for their multiplied and important services to the liberating army in the most difficult circumstances of the Republic. (Denegri, 1975, pp. 184, 185).

As can be seen in the first recital, the Liberator and his minister governed in accordance with the Constitution of 1823, which in its article 184° provided that there should be universities in the department capitals. Therefore, the foundation of the University of Trujillo was, on the one hand, the result of the law and, on the other hand, thanks to the patriotic support of the people of Trujillo to the Liberator Army in the most difficult moments, as highlighted in the third recital. But the fact that is important to underline in the first recital refers to the transcendent role of the University: "to promote public instruction, on which the support and security of social rights depend to a great extent".

The freedom of the people was a priority in the agenda of Bolivar and Sanchez Carrion and should be developed smoothly to turn it into a perpetual good. It was urgent to settle historical debts, especially with vulnerable segments of the population, such as blacks and Indians. Thus, regarding the freedom of slaves, on July 21, 1816, Bolivar signed a decree in the barracks of Carúpano, which in its third article states: "The new citizen who refuses to take up arms to fulfill the sacred duty of defending

his freedom, will be subject to servitude, not only he, but also his children under fourteen years of age, his wife and his elderly parents". Years later, on March 11, 1818, in Villa de Cura, he signed another decree, which in its second article alludes: "Once slavery is abolished in Venezuela, all men who were previously slaves will present themselves to the service to defend their freedom". These measures are tangible evidence of vindication to the oppressed who longed for their freedom and dignity.

Another milestone in the liberation of slaves was marked by José Faustino Sánchez Carrión, when on April 23, 1824 he manumitted in Trujillo his slave brought from Lima; however, in republican Peru it took three decades for President Ramón Castilla to decree the abolition of slaves on December 3, 1854 and President Abraham Lincoln decreed on January 1, 1863 the end of slavery and equal rights and privileges for all settlers in the United States of North America.

The respect for the human dignity of the Indians was evidenced in the work of the hero Sanchez Carrion in his parliamentary work, as he advocated for their dignity and rights. The vindication of this vulnerable segment of the population was expressed in the Letter to the Indians of the interior provinces of October 10, 1822, when the hero endorsed it as deputy secretary of the Congress together with other constituents, who stated:

Noble children of the sun, beloved brothers, to you virtuous Indians, we address the word, and do not be astonished that we call you brothers; we are indeed, descendants of the same parents; we form a single family and with the soil that belongs to us, we have also recovered our dignity and our rights. (Tamayo and Pacheco, 1974, pp. 94-95)

On April 8, 1824, Bolívar and Sanchez Carrion signed a decree affirming agricultural property, Article 3 of which states: "The lands called community lands will be divided according to ordinance among all the Indians who do not enjoy any other kind of land..." (Valdiviezo, 1989, p. 55). (Valdiviezo, 1989, p. 55). This decree was an express recognition of the dignity of the native settlers of deep Peru, the protection of a race from the exploitation to which it had fallen victim, whose lands were one day taken from their ancestors by usurpers from the Iberian Peninsula. The message of both guides was very clear: freedom had no basis if it did not mean the vindication of the dignity of races and peoples.

Although the Peruvian Independence Revolution was led by Creoles, enlightened Indians, such as Túpac Amaru II, successor of the last rebel Inca Túpac Amaru I, or Mateo García Pumacahua, a military officer directly descended from the Inca Huayna Cápac, also played an important role in this feat. Regarding the vindication of the Indians as a precious fruit of emancipation, Mariátegui (1977) refers: "The liberal program of the Revolution logically included the redemption of the Indian, an automatic consequence of its egalitarian postulates. Thus, among the first acts of the Republic, there were several laws and decrees favorable to the Indians. The distribution of land, the abolition of free labor, etc., were ordered". (p. 46)

But freedom has no meaning in a society of ignorant people either, because only if a people is educated can it be free. Therefore, ensuring the freedom of the continent implied offering education to the people, since independence did not depend only on the expulsion of the viceroys of Peru and America. The distinguished soldier from Caracas had firm convictions regarding the role of education, which are reflected in his famous thoughts: "the health of a Republic depends on the morals that citizens acquire through education in their childhood" (Alvarez del Real, 1988, p. 266). He also asserted that the "true foundation of happiness is education" (ibidem, p. 260).

Simón Bolívar's ideas on popular education were endorsed by his minister and close collaborator Sánchez Carrión and recognized by the University of San Marcos. They were then translated into the foundation of educational institutions in many towns with the purpose of training the new individuals of the new continent. "For the Liberator Bolívar, the most powerful instrument of liberation was in the educational reform that made his victories profitable, gave them a transcendent and constructive sense. Because its purpose was to form a new Hispano-American man" (Valcárcel, 1974, p. 129). But it was also necessary to have teachers to educate, for which they issued a decree on January 31, 1825 that provided for the founding of Normal Schools in each departmental capital; however, when the Liberator left Peru, the decree was not applied. Only after half a century the formation in Lima began timidly in the Normal School for Women in 1876 and in the Normal School for Men in 1905. And the thinking elite defending social rights had to be trained at the University founded in Trujillo.

Health is also a social right par excellence, so the fruit of Bolívar's governmental work was the foundation of hospitals to attend to the health of the people. In the second part of his government, Bolívar reinforced the work he had done with Sánchez Carrión with other ministers. And since health was a priority issue in his governmental mission, the Liberator chose the renowned physician Hipólito Unanue as minister "first in the Ministry of Finance and later in the Ministries of Government and Foreign Affairs, becoming vice president of the Government Council in charge of the command during the absence of the Liberator (April 10, 1825 to January 5, 1826)". (Pamo, 2009)

Being a lawyer, Sánchez Carrión could not be indifferent to the problem of justice. He convinced the Liberator and they both instituted the tutelary bodies for the administration of justice: the Superior Court of Justice of Trujillo on March 26, 1824, the Supreme Court of Justice on December 10, 1824 and a few days later the Superior Court of Justice of Lima, on December 22. In this way, both characters sought to ensure the administration of justice for all, a bastion of a country that must live in democracy. In this line of thought, it is worth mentioning the judgment of the historian Raúl Porras Barrenechea about the Solitario de Sayán, who finds in this hero "the purest legacy of our democratic doctrine" (quoted by Estremadoyro, 1990, p. 375).

In order to guarantee the proper administration of justice, on May 31, 1824, a decree was issued to sanction judges and public employees who prevaricated, as can be seen in the first articles of the operative part:

Article I. Judges who knowingly judge against the law, out of affection or disaffection for any of the litigants or other persons, are guilty of malfeasance.

Article II. Any magistrate or judge who commits this offense shall be deprived of his employment and disqualified from holding any office; and shall pay to the aggrieved party all costs and damages. If the prevarication was in a criminal case, he shall also suffer the same penalty that was unjustly imposed on the defendant. (Castro and Dulanto, 2001, p. 127).

Such was the strictness of the decree that had as its objective that in the Courts of Justice the judges impart upright justice, without distinction of social, economic, etc. condition. Justice should be equal for all: natives, Indians, Creoles, poor, wealthy, etc. This decree was the product of equanimous, just and visionary minds, like those of Bolívar and Sanchez Carrion. Already in 1915, Bolívar had stated that "Justice is the queen of republican virtues, and with it equality and liberty are sustained". (Álvarez, 1988, p. 36).

The scrupulous and austere management of the treasury in order to direct resources to the emancipation campaign, education, health and justice of the people was characteristic of the Liberator and his minister. The resources were necessary for the strengthening of the army; the foundation and operation of schools, colleges, hospitals and Courts of Justice; that is why, in their eagerness to preserve the ethics of the public official and avoid rascalities, they published on January 2, 1824 a moralizing decree that in its first recital refers: "That one of the main causes of the disasters in which the Republic has been involved has been the scandalous squandering of its funds, by some officials who have intervened in them" and in the first resolute article refers: "Any public official, who is convicted in summary trial, of having embezzled or taken for himself from the public funds of ten pesos above, is subject to capital punishment" (Denegri, 1975, p. 142). It was a policy of zero tolerance to bad public officials, which is required in these times of scandalous corruption in the governments of Peru and many countries of Latin America and the whole world.

The introduction of social rights marked a historical milestone that emerged with the first republican University as a result of the concern for the dignity of the peoples, marginalized social groups and the indigenous race that for centuries suffered plundering of which they had been victims during colonialism. The defense of these rights turned the Liberator and his unique minister into genuine precursors of this type of rights in Peru, America and the whole world, an action typical of statesmen and visionaries that constitutes an accurate indicator of an advanced vindicating thought of men and peoples oppressed for centuries.

"Once the war was over, Bolívar also saw the time had come to accelerate social reform" (Perez, 1986, p. 12) with the help of his collaborators, Sanchez Carrion being the most prominent. Thus, to

redeem a people oppressed for three centuries, that in 1824 "practically two thirds of the population were Indians" (Roel, 1996, p. 13), decrees were issued to favor them, such as freeing them from taxes, promoting education, providing justice, combating corruption, among others. The road to the realization of social rights was underway; however, when their promoters left the government, they were forgotten for almost a century to achieve legal status.

The expression "social rights" was a novel contribution that was not contemplated in the Peruvian Constitution of 1823 or in international norms. At present, economic, social and cultural rights are abbreviated as social rights, which "achieved their legal and political recognition in the twentieth century" (Vicente, 2006, p. 13). However, it should be borne in mind that social rights should be conceived on a par with human rights.

In this sense, it is important to remember that the legal history of human rights begins in the modern age, with the recognition of the rule of law and the individual human rights that serve as its support and foundation, while recognizing the foundational support of the idea of human dignity, from the first reflections on the morality of humanity in the Western world.

The first formulations of the rule of law correspond to the liberal rule of law and the recognition of individual rights and freedoms, which appear as rights of the citizen, that is, guaranteed only to those persons who had the status of citizens. (ibidem, p. 13)

Precisely, the topic of social rights was a novel contribution that emerged from the genius of Simón Bolívar and José Faustino Sánchez Carrión in the twenties of the 19th century, a contribution that crystallized in the various Constitutions a century later. But what message did both leaders give when they included the category of social rights in the founding decree of the first republican University? It was a message of deep humanitarian content that emerged from the genius of two social reformers, political ideologists, strategists, statesmen and intellectuals of the widest spectrum.

In line with the protection of rights proposed by Bolívar and Sánchez Carrión, after more than sixty years, on May 15, 1891, Pope Leo XIII published his encyclical letter *Rerum Novarum*, a response of the Church to those who sullied the dignity of workers and practiced labor exploitation; that is, with this document that explained the deplorable situation of workers and defended their rights, the so-called Social Doctrine of the Catholic Church began. But before the Catholic Church, a response to the serious problem of labor exploitation was published in 1848 in the famous *Manifesto of the Communist Party* by Marx and Engels. Both authors present a historical vision and point out that the political and cultural changes that produced bourgeois society arose from the disintegration of feudal society, which meant the positioning of the bourgeoisie as the dominant class, owner of the means of production and responsible for the abuses of the workers. Likewise, the authors state that the proletariat is the new revolutionary class that will put an end to the bourgeois system, in order to immediately set in motion the new relations

of production. This was the categorical answer from the other side of those who implemented the exploitation of the workers as a natural form of action and enrichment.

The so-called "social question" or "social problem" was nothing other than the reference to the misery of the working class due to the unjust treatment it received from the owners of the means of production who were mercilessly enriching themselves. As indicated by López-Rodríguez (1997), the Leonian encyclical "directly confronted the so-called "social question"", and in commemorating the centenary of the encyclical, the Archbishop of Lima Vargas (1991), stated that "it has been a particularly intense century. Humanity has seen remarkable advances and has seen how unimaginable heights have been reached in the development of science and technology. But it has also contemplated, not without consternation, how the dignity of the human person has been lowered and his life has been trampled upon to unsuspected limits" (p. 5). Likewise, the cardinal points out, "I want to raise my voice, keeping in mind the example of Leo XIII, to defend above all the human dignity of the weak and abandoned" (pp. 8, 9). The aforementioned archbishop, later a cardinal, from the point of view of the Catholic Church, points out that human dignity is being progressively lowered, which occurred before the appearance of the aforementioned papal encyclical. This shows that, from the point of view of the Church, there is a deterioration of social rights, in spite of having achieved more and more space in the theoretical juridical sphere.

With the arrival of the twentieth century, social rights were only recently emphasized in the legal framework of several countries, such as the Constitution of the United States of Mexico of 1917 and the Constitution of Peru of 1920 (Orbegoso, 2016); they were also considered in the Declaration of the Rights of the Working and Exploited Peoples incorporated into the Constitution of the Russian Federative Socialist Soviet Republic (1918), the Weimar Constitution of Germany (1919), the Constitution of the Spanish Republic (1931), the Constitution of Ireland (1937), among others. Social rights were not part of the agenda of successive military governments and scarce presence of civilian governments in the 19th century. During this time, from being a colony of Spain, Peru became a "colony of foreigners administered by Peruvian civil servants" as stated in 1900 by Dr. Villarín (cited by Roel, 1996, p. 21). Thus, what progress was made in the golden years of the Republic, in time became a setback for the rights of the Indians and the exploited.

Kartashkin (1984) reports that economic, social and cultural rights have achieved increasingly transcendental places in the legal systems and political aspirations of many countries, as well as the attention of various international organizations, such as the United Nations. Thus, while constitutions and legislative acts in the eighteenth and nineteenth centuries primarily considered civil and political rights, economic and social rights were seen as a by-product of the development of those rights.

In the aftermath of World War II, the history of human rights marks a transcendent milestone: the 1948 Universal Declaration of Human Rights, a document adopted by the UN General Assembly in its Resolution 217 A (III) of December 10, 1948 in Paris. Throughout the universe, this remarkable document had an express constitutional recognition of civil and political rights, as well as economic, social and cultural rights. The latter three, which are stipulated in articles 22 to 27, are spelled out in detail in the International Covenant on Economic, Social and Cultural Rights, whose provisions are designed to establish binding obligations among the member states that subscribe to the Covenant, which is not necessarily the case with the Universal Declaration.

The UN Assembly decided on the adoption of two separate conventions adopted in 1966: one relating to civil and political rights, and the other to economic, social and cultural rights, a duality motivated by the different nature of the measures to be taken to achieve their fulfillment, and not to symbolize differences between these blocks of rights. It should be noted that both conventions explicitly recognize that the ideal of free people can only be achieved when they are guaranteed the enjoyment of all rights, economic, social and cultural as well as civil and political. Thus, from a historical perspective, the measures adopted by the supranational Assembly are late compared to the proposals made in 1824 by Simón Bolívar and Sánchez Carrión, which clearly indicates how far ahead of their time they were in terms of social rights, associated with the freedom and dignity of peoples.

In the history of Peru, it was in 1920 that for the first time social rights, enunciated in 1824 by Bolivar and Sanchez Carrion, were included in the Political Constitution in its Title IV called social guarantees. The consecration of these rights, as indicated by Orbegoso (2016), were the result of the influence of the Mexican Constitution of 1917. But it should also be noted the influence of the arduous days of workers' struggle in Peru for the eight hours of work, which was won on January 15, 1919, the student struggles for university reform led by Victor Raul Haya de la Torre, rather than the ideals of the liberators, which were forgotten in their true dimension by successive governments for a long period of almost a century. Generally, it has been the people's struggles that have wrested their demands from power and from treacherous and abusive governments.

In Peruvian history, decades after the achievements in the 1920 Constitution, the inventory of social rights appeared shining in the 1979 Political Constitution, which was the result of a Constituent Assembly presided by Victor Raul Haya de la Torre; but this time it was strongly influenced by the Spanish Constitution of 1978 and the various international treaties on human rights, such as the UN Covenant on Economic, Social and Cultural Rights adopted on December 16, 1966 and entered into force on January 3, 1976. And it was with the Constitution of 1993 that the Constitutional Court began to develop its content. This important supreme Court, in its file No. 2945-2003-

AA/TC (Legal Ground 10), clearly refers that social rights are those "tuitive powers aimed at favoring those human groups with accidental characteristics differentiated in relation to others by cultural factors, or who are disadvantaged for economic-social reasons, that is, with a depreciated position or location in their standards of living, not in accordance with human dignity." (Orbegoso, 2016)

The independence of Peru, like that of other South American countries, could not have the meaning it deserved if the new State and institutions did not sponsor the social rights of the most vulnerable people, who were a bulwark in the Liberation Army. Bolívar and Sanchez Carrion worked along these lines; however, it took nearly a century for the rights that were raised in 1824 to be manifested. How much effort it cost the aforementioned protagonists to attend to the libertarian feat and stipulate early the social rights of historically marginalized groups, such as indigenous people, peasants, workers, among others; but in Peru and the world the legalization of these rights has been late, which means a delayed response to the respect for human dignity, which is presumed to be one of the main pillars of the social and democratic rule of law.

Conclusions

Simón Bolívar and José Faustino Sánchez Carrión were forerunners and standard bearers of social rights in Peru, the republican America and the world, because both formulated them explicitly in the first recital of the decree of foundation of the University of Trujillo on May 10, 1824 in the difficult hour of the libertarian deed; because they exhorted that of the formation provided in this Higher House of Studies will depend on the support and security of these rights. The University was the reward for the achievement of freedom, to the outstanding effort of the inhabitants of the department of Trujillo (now La Libertad), located in the north of the Peruvian territory.

The Liberator and his general minister made the greatest efforts to recognize the social rights proposed in 1824. Therefore, at the same time that independence was sealed, they founded schools and colleges, decreed the training of teachers to eradicate illiteracy, ordered the manumission of slaves, decreed the distribution of land to the indigenous people, founded guardian institutions for the administration of justice, among other measures in favor of the people, constituted by two thirds of Indians. However, the constitutional recognition of social rights was ignored for a long time, since it was not until the arrival of the 20th century that they were adopted in the Mexican Charter of 1917 and later by Latin American social constitutionalism.

The social rights enunciated by Bolívar and Sanchez Carrion have transcended time, being established in the Political Constitutions of various countries, such as the 1920 Political Constitution of Peru, motivated by the Mexican Constitution of 1917 and the Peruvian social struggles to achieve the eight-hour workday of 1919; the Peruvian Constitution of 1979, influenced by the Spanish Constitution of 1978;

and the UN Covenant on Economic, Social and Cultural Rights of 1966. However, it was not until the 1993 Constitution that the Peruvian Constitutional Court developed its content. Therefore, the social rights that emerged with the Republic of the genius of two leaders, fit with the permanent aspirations of the population for better living conditions and respect for their dignity, in a country that provides equal opportunities and without discrimination.

References

1. Alfonso, I. (1994). *Técnicas de investigación bibliográfica*. Contexto Ediciones.
2. Castro, L. and Dulanto, F. [eds.] (2001). *José Faustino Sánchez Carrión. En defensa de la patria*. Fondo Editorial del Congreso de la República.
3. Álvarez, M. E. (1988). *Thoughts of Bolívar*. América.
4. Bacacorzo, G. (July 23, 2004). *Actualidad del Pensamiento del Libertador Simón Bolívar*. Speech at the Ceremony commemorating the 221st Anniversary of the birth of the Liberator Simón Bolívar and the Day of Andean Unity. <http://www.comunidadandina.org/Prensa.aspx?id=2134&accion=detalle&cat=DI&title=actualidad-del-pensamiento-del-libertador-simon-bolivar>
5. Basadre, J. (1981). *Peruvians of the XIX century*. Rikchay Perú.
6. Benvenuto, N. (1930). *José Faustino Sánchez Carrión, hero of national independence*. Imprenta Americana.
7. Campos, J. (1986). *Bolívar*. Salvat.
8. Centurión, H. (1984). *José Faustino Sánchez Carrión. Minister of the Liberator*. National University of Trujillo.
9. Chamané, R. (1990). *Las ideas y los hombres. Thinkers of Peru*. Editora Magisterial.
10. Denegri, F. [editor] (1975). *Documentary collection of the Independence of Peru, volume XIV. Obra gubernativa y epistolario de Bolívar, vol. 1º, Legislación 1823 - 1825*. National Commission of the Sesquicentennial of the Independence of Peru.
11. Estremadoyro, C. (1990). *Diccionario histórico biográfico. Illustrious Peruvians*. (3rd ed.). Científica.
12. Galarreta, J. (2011). *Sánchez Carrión. Passion and course of freedom*. Papel de Viento Editores.
13. Gutiérrez, A. (2005). Simón Bolívar: an approach to the Liberator's thought. *Araucaria. Revista Iberoamericana de Filosofía, Política y Humanidades*, 8(14). <https://digital.csic.es/bitstream/10261/28362/1/BolivarPen.pdf>
14. Kartashkin, V. (1984). Economic, social and cultural rights. In AA.VV. (Eds.). *The international dimensions of human rights* (168-172). Ediciones del Serbal and Unesco.
15. López-Rodríguez, T. (1997). *Leo XIII and the social question (1891-1903)*. <https://dadun.unav.edu/bitstream/10171/8970/1/1203867.pdf>
16. Mariátegui, J. C. (1977). *7 ensayos de interpretación de la realidad peruana* (38th ed.). Empresa Editora Amauta.

17. Orbegoso, M. (2016). Social rights in Peru. The influence of the Mexican Constitution of 1917. *IUS. Journal of the Instituto de Ciencias Jurídicas de Puebla AC*, 10(38), 1-22. http://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S1870-21472016000200003
18. Pamo, O. G. (2009). The medical heroes of Peruvian independence. *Acta Médica Peruana*, 26(1), 58-66. http://www.scielo.org.pe/scielo.php?script=sci_arttext&pid=S1728-59172009000100013
19. Pérez, M. (1986). El Legado histórico de Bolívar (prologue). In J. Campos. *Bolívar* (pp. 9-14). Salvat.
20. Robles, E. (January-December 2004). Foundation and installation of the National University of Trujillo. *Norte*, (10), 48-55.
21. Roel, V. (1996). *La revolución científica y tecnológica y la nueva reforma universitaria*. Lima: Herrera Editores.
22. Tamayo, A. and Pacheco, C. (1974). *Documentary Collection of the Independence of Peru, volume I, vol. 9*. Comisión Nacional del Sesquicentenario de la Independencia del Perú.
23. Valcárcel, C. D. (1974). *Bolívar's educational work and his reception in San Marcos*. Universidad Nacional Mayor de San Marcos.
24. Valdiviezo, A. (1989). *Medidas de Gobierno de la Dictadura de Bolívar en el Norte del Perú*. Libertad.
25. Vargas, A. (1991). *A hundred years after "Rerum Novarum"*. Latina.
26. Vicente, T. (2006). *La exigibilidad de los derechos sociales*. Tirant Lo Blanch.
27. Villarán, M. V. (1999). Essay on the constitutional ideas of Bolívar. *Bolívar, Journal of the Andean Community of Nations*, 63-89.
28. Villavicencio, V. M. (1955). *Sánchez Carrión. Ministro General itinerante de Bolívar*. Junín.