

HOW CAN A MODERN HISTORY OF THE BASQUE COUNTRY
MAKE SENSE? ON NATION, IDENTITY,
AND TERRITORIES IN THE MAKING OF SPAIN

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One of the more recurrent debates among Basque historians has to do with the very object of their primary concern. Since a Basque political body, real or imagined, has never existed before the end of the nineteenth century —and formally not until 1936— an «essentialist» question has permanently been hanging around the mind of any Basque historian: she might be writing the history of a non-existent subject. On the other hand, the heaviness of the «national dispute» between Basque and Spanish identities in the Spanish Basque territories has deeply determined the meaning of such a cardinal question. Denying the «other's» historicity is a very well known weapon in the hands of any nationalist discourse and, conversely, claiming to have a millenary past behind one's shoulders, or being the bearer of a single people's history, is a must for any «national» history. Consequently, for those who consider the Spanish one as the true national identity and the Basque one just a secondary «decoration», the history of the Basque Country simply does not exist or it refers to the last six decades. On the other hand, for those Basques who deem the Spanish an imposed identity, Basque history is a sacred territory, the last refuge for the true identity.

Although apparently uncontaminated by politics, Basque academic historiography gently reproduces discourses based on na-

tionalist assumptions. Almost every single author on Basque history seems to feel the obligation of starting with some kind of declaration of national identity containing an explanation of why she refers as *Basque* to the three provinces that formed the Autonomous Community of the Basque Country, or to these provinces plus Navarre, or even to the whole Basque-speaking territories on both sides of the Pyrenees. Opting for one of the several names available for the «Basque thing» as a subject matter —Euskadi, País Vasco, Provincias Vascas, Vasconia, Euskal Herria— usually brings about also a political classification. Even if not deliberately and expressly claimed by the author, it would be easy for any Basque scholar to identify the ideology of her colleague just checking how she names the Basque subject.

This is just a shallow symptom of a deeper condition of Basque historiography which, in my opinion, is still today debating with Sabino Arana. It was the forefather of the Basque nationalist movement who first declared divided the historical experiences of the Basques and the Spaniards. As Javier Corcuera demonstrated in his penetrating analysis of the origins of Basque nationalism, Sabino Arana was no more than a product of his time: as many of his contemporaries he was a racist obsessed with the identification of a single Basque type among the complicated map of races resulting from the chauvinist fever that affected European intellectuality by the end of the nineteenth and the beginning of the twentieth centuries¹. Even if his knowledge of Basque history was rather a poor one, he did not hesitate in choosing history as the main source of Basque national idiosyncrasy. In *Bizcaya por su Independencia* (1892), a very poorly reasoned brochure about Biscayan history, he successfully introduced a new conception of the Basque past as an unfinished dispute against Spain for national sovereignty. Two years later Arana decided that the very turning point of modern Basque history was not to be fixed in 1876 —when the Spanish parliament abolished the Basque Fueros²— but in

¹ Javier Corcuera, *La patria de los vascos*, Madrid, Taurus, 2000 pp. 209 ff and 359 ff.

² I will use here the word «Fueros» or «Fuero» —and the adjective «foral»— in Spanish. It could be translated into English as «special statute», although it also means the juridical and political culture associated to it. Note that the word was not only used in modern Spain to make reference to the Basque provincial statutes, but also to municipal privileges (as in Fuero de Burgos), the privileges of any kind of corporation (Fuero eclesiástico), or even the special legislation for Native Americans (fueros de los indios).

1839. Although in 1839 the Spanish Cortes passed a law confirming and not abolishing the *Fueros* of the Basque Provinces, for «el Maestro» that was the *annus horribilis* for Basque independence³.

The only reason why Arana abhorred the law confirming the Basque foral system in 1839 was its capacity to integrate Basque constitutional peculiarities inside the Spanish constitutional monarchy. In other words, Arana, a confessed antiliberal, wanted to avoid the evil of constitutional modernity in the only pure Catholic redoubt remaining after the collapse of the ancient Spanish Catholic monarchy, namely *Euzkadi*⁴. What is important to us is that in doing so Arana stressed the historical rupture between the Basque and the Spanish. No more integration or sharing of common projects: conquest and redemption were the new key concepts provided by Arana for the interpretation of Basque history. As a consequence, the history of the nineteenth century could only be an account of a conflicting relationship between the Spanish constitution and Basque *Fueros* in which the second had been finally superseded by the first. From an Aranist point of view, the only possible end of history could be the recovery of the *Fueros* reinterpreted as the independence of the «euskos».

With a few exceptions the Aranist conception of modern Basque history has certainly proved to be successful. Most of the Basque scholars unquestionably accept an account of the history of the nineteenth century in which the contradiction and confrontation between *Basque* *Fueros* and the *Spanish* constitution is taken for granted. They would also assert that those *Basque* *Fueros* had been previously under attack, at least from the beginning of the eighteenth century onwards. According to this «official» version of the Basque modern history the clash between Spain and the Basque Country is a continuum for the last two centuries

³ The two articles of this law read: «Artículo 1: Se confirman los *Fueros* de las Provincias Vascongadas y Navarra, sin perjuicio de la unidad constitucional de la Monarquía.

Artículo 2. El Gobierno, tan pronto como la oportunidad lo permita y oyendo antes a las Provincias Vascongadas y Navarra, propondrá a las Cortes la modificación indispensable que en los mencionados *Fueros* reclame el interés de las mismas, conciliado con el general de la nación y de la constitución de la monarquía resolviendo entre tanto provisionalmente y en la forma y sentido expresado las dudas y dificultades que puedan ofrecerse dando cuenta de ello a las Cortes.»

⁴ *Euzkadi* was the name that Sabino Arana invented to refer to the set of Basque provinces as a country. Literally it means the place populated by *euzkos* (another invention of Sabino Arana), that is, the people who speak Basque.

which, consequently, could only eventually be solved through the implementation of two different *nation-States*.

In this paper I would like to challenge these assumptions about the modern history of the Basque Country. In other words, I propose saying «agur» (farewell) to Sabino Arana and revisit the usefulness of a modern history of the Basque Country from a point of view that avoids the ideas of conquest —military or constitutional— and the set of related concepts that usually conform the Basque historiographical discourse —confrontation, contradiction, Fueros vs. Constitution, Basque vs. Spanish, etc. In doing so I am not claiming for any kind of «vindication» of Spain or the Spanishness of the Basques. Even if the latter could be easily demonstrated by just taking a look at the Basque history prior to the twentieth century, it would be no more than a revival of a nationalist perspective. What I am suggesting is that the best —and in my opinion practically the only— way to continue writing about Spanish or Basque history is just giving up writing on Basque or Spanish history. What follows is an explanation of this paradox.

BACK TO THE BEGINNING: AMERICA

It could be said that mine is partially an *orteguiana* interpretation, since José Ortega y Gasset used a similar approach to explain the «modernity» of Basque and Catalan nationalism versus the «obsolescence» of the idea of Spanish nation. Ortega y Gasset argued that Spain as a national project powered by Castille brought the arid and steppe kingdom to a leading position in the world. Ortega's historical recreation of Spain as a national project was strictly linked to the idea of a conquering monarchy and, consequently, he envisaged the decline and fall of the Spanish nation in the process of consolidation and stabilization of the «Hispanic» monarchy. Since from the end of the sixteenth century onwards there were no more great conquests, no more remarkable military projects, he concluded that it should also be the starting point of Spanish decadence.

Ortega's historiographical pessimism was wrapped in the language of realism: «El proceso incorporativo va en crecimiento hasta Felipe II. El año vigésimo de su reinado puede considerarse como la divisoria de los destinos peninsulares. Hasta su cima, la

historia de España es ascendente y acumulativa; desde ella hacia nosotros, la historia de España es decadente y dispersiva.»⁵ For Ortega, the place of Basque and Catalan nationalism is right here, in the decadence and collapse of the Spanish-Castilian nation. Following an influential interpretation fueled in the last decades of the nineteenth century by Antonio Cánovas del Castillo —who was several times prime minister and the *alma mater* of the abolition of Basque Fueros in 1876— one of Ortega's obsessions was the interpretation of the Spanish nation in a context of decadence⁶. Though used as a contrast to show Spanish national decadence, Ortega placed Basque and Catalan vigorous nationalism in a *long-durée* process lasting from the end of the sixteenth century.

Notwithstanding the explicit nationalist perspective adopted in his political writings, the usefulness of Ortega's interpretation of separatism in modern Spain rests on the global reading of inter-related facts that he proposes. Like Ortega, I believe that a double process of expansion and contraction labels the history of modern Spain, and that eventually its history could have been a journey from Castille to Castille. The conqueror monarchy originated around the kingdom of Castille, whose expansion, begun against the Arab kingdoms of the Iberian peninsula and followed against the American peoples from 1492 until the end of the eighteenth century, was reduced again to its peninsular size —plus the Canary and Balearic islands— in a process of contraction from 1811 to 1898. By no means 1898 put an end to this trend of contraction. On the contrary, the simultaneous emergence of the powerful Basque and Catalan nationalism, later the Galician too, kept the process alive and the menace of new territorial reductions permanently hanging over the head of the Spanish nation. The proclamation of the Catalan Republic from the balcony of the Generalitat de Catalunya in Barcelona in 1931, was a symptom that in the troublesome first three decades of the twentieth century the historical circle could have been closed contracting Spain again to Castille.

Where my hypothesis differs from an *orteguiana* interpretation

⁵ José Ortega y Gasset, *España invertebrada. Bosquejo de algunos pensamientos históricos* (1921), in *Obras completas*, Madrid, Revista de Occidente, 1950 vol. III, p. 67.

⁶ Inman Fox, *La invención de España. Nacionalismo liberal e identidad nacional*, Madrid, Cátedra, 1997 cap. III.

is in the fact that I do not care about a fatal fate of the «Spanish nation». I am not interested in explaining the «decadence» of «Spain», but the overlapping of the concepts of autonomy and independence in an Atlantic crisis of the Spanish monarchy. Consequently, my research assumes that the contraction has to be interpreted as a transition from a Hispanic monarchy to a Spanish nation. From my own point of view, the contraction is not related to «decadence», beginning by the end of the sixteenth century, but to the birth of modern constitutionalism at the beginning of the nineteenth century. To be more precise, I think that it was just a single sentence that ignited the *big-bang* of the *dissolution* of the Hispanic monarchy contained in the first article of the first Spanish constitution (1812) which reads: «La Nación española es la reunión de todos los españoles de ambos hemisferios.»

Seen in the context of the Atlantic revolutions and modern constitutionalism, the constitutional experiment performed in Cádiz between 1810 and 1812 by an uncertain number of deputies who pretended to represent the whole monarchy from Barcelona to Manila was absolutely unique. Never before and never again was a constitution intended to transform a whole ancient empire into a new single nation. Stating that the «Spanish Nation» was a reunion of Spaniards spread over three different continents was undoubtedly more a political dream than a practical definition, as Jeremy Bentham pointed out in 1820⁷. However, this wishful thinking demonstrated to be a powerful engine for the making of republics, nations, and states: in less than fifteen years more than ten different and separated political entities had been created out of the «Spanish nation» defined in Cadiz in 1812. Spain itself was no more than one of these «new republics» coming out of the collapse of the Hispanic monarchy.

Thus, the birth of constitutionalism in the Hispanic Atlantic, and not a cultural or «spiritual» decadence of the *Spanish nation*, paralleled the contraction of the Hispanic monarchy. In other words, my interpretation ceases to be *orteguiana* since I do not

⁷ Jeremy Bentham, *Colonies, commerce, and constitutional law: Rid yourselves of Ultramarina and other writings on Spain and Spanish America*, ed. Philip Schofield, Oxford and New York, Oxford University Press, 1995. An analysis of Bentham's advice to the Spanish liberals in Bartolomé Clavero, «¡Libraos de Ultramarina! El fruto podrido de Cádiz», in José M. Iñurritegui and José M. Portillo (eds.), *Constitución en España. Orígenes y destinos*, Madrid, CECP, 1999.

believe that it was the *decadence* of the Spanish nation but its very political emergence that ignited the contraction of the Hispanic world. From the reading of the discourses exhibited by the American Creole leaders it was also clear that in this process of contraction separatism the creation of new differentiated political bodies was only a possibility among many others. Practically all of the institutions created by American urban elites were initially more interested in setting up a new Hispanic political agreement than in creating separated republics. A federal monarchy led by a Spanish emperor and composed by several American monarchies, or a series of autonomous parliaments and governments united in some kind of «Hispanic Senate», or simply a consistent development of the «diputación provincial» as defined in the Spanish constitution of 1812 were among the possibilities pointed out by American leaders in order to keep the new Spanish nation united.

Accustomed as we are to consider the nation-State as an unquestionable fact, it is difficult for us to imagine how unexpected it was at the beginning of the constitutional era. More clearly than in other spaces, in the Hispanic world the «state» or the «nation» are literally latecomers. The concept of *nation* as a political compact embracing an extended area institutionalized as a *state*, far from being easily granted and accepted had to deal and negotiate with other more powerful categories, namely with the concept of «Pueblo». Coming from the old Iberian tradition of local political bodies and governments, the *pueblo*, and not the nation or the state as a unified political space was supposed to be the true and original recipient of sovereignty. Hence, in the context of a general crisis of the monarchy originated by the invasion of the Peninsula by Napoleon's army in 1808, sovereignty was mainly placed in the *pueblos* and not in the nation or the state —actually the Spanish state almost ceased to exist due to the institutional collapse that followed the invasion.

Resulting from such a scenario composed by a universe of *pueblos* barely kept united after Ferdinand VII irresponsibly ceded the crown to Napoleon, the Hispanic nations had to deal and negotiate its own existence with different *pueblos*. In fact, the Hispanic nations have been negotiating until the present time, both in Spain and in Spanish America, with the heirs of the *pueblos* (territories, provinces, cities, *pueblos de indios*, states, or now autonomous communities in Spain). It was in the process of negotiat-

ing nationality that the Spanish nation lost the majority of its territory as defined in 1812. The metropolitan governments, both liberal and absolutist, never accepted the political consequences of defining all the Spaniards from both hemispheres as the «Spanish nation». As their northern neighbors knew very well, being part of the nation implied autonomy and equal political representation in the imperial-national parliament. What the American colonists had unsuccessfully claimed from England before becoming independent seemed to be promised by the Spanish Cortes in 1812 to the Creole elites.

Despite the promising statements that could be read by the Spanish Americans on the constitution, the Hispanic laboratory was in fact about to reveal the limits of liberalism. The idea of local and territorial autonomy through the implementation of «ayuntamientos» and «diputaciones provinciales» was introduced in the Spanish constitution of 1812 following the suggestions of a Mexican deputy (Miguel Ramos Arizpe) probably inspired by the Basque foral institutions —Juntas generales and diputaciones. When it came to practice, though, autonomy was denied to American territories while it was granted to Basque Provinces or other peninsular territories. For the European part of the monarchy the liberal constitution of 1812 even meant a revival of territorial autonomy, as testified by the cases of Catalonia and Asturias witnessed. For the American rim of the «Spanish nation», however, it was an experience of inequality and of negation of autonomy. To put it briefly: the Peninsulars were admitted to the Spanish nation while the Americans were literally expelled from it. As the exclusion of Cuba, Puerto Rico and the Philippines from the constitution since 1837 will demonstrate, Spanish liberalism —like European liberalism in general— never accepted that *liberal* principles could be liberally implemented also in their non-European dominions.

The case of the first Spanish liberalism, however, presents a more complicated itinerary than the French constitution of 1791 declaring the colonies non-constitutional territories, or than the British government not accepting American representatives in the European parliamentary institutions. On the contrary, the Spanish constitution of 1812, as recalled before, declared the whole monarchy to be a single «Nación española» and, consequently, accepted that America (and the Philippines) sent their representa-

tives to the Cortes (parliament) as the European provinces did. What the Spanish (European) liberals could hardly accept were the political implications of such a declaration. They never recognized in their American fellows (the Creole elite) the same right to create autonomous governments (Juntas) they had implemented in Spain, and, when it came to representation, they literally cut off several millions of people from the electoral rolls (basically people from African ancestry and «non-civilized Indians») decreasing the American elite's political relevance. In doing so Peninsular liberalism proved to be absolutely unable to share the nation with any other non-European territories. From now onwards, the remaining American and Asian Spanish dependencies were officially considered «dominions» and treated as colonies⁸.

Between 1811 and 1826 a series of republics emerged from the «Spanish nation» defined in the Cadiz constitution in 1812. Deliberately and expressly all of them declared themselves to be free and independent from any other power and namely from Spain. As masterfully analyzed by Jaime E. Rodríguez the political discourses of the urban Creole elites that promoted the declarations of independence were originally closer to autonomy and Home Rule than to independence. The ethnic and social complexity of Spanish American societies, the commercial interest in being part of a world-system connecting the Mediterranean with the Pacific through the Atlantic, and a sincere feeling of attachment to the Spanish monarchy were among the reasons that fueled the search for autonomy instead of independence⁹. Juan Germán Roscio, a salient ideologue of the Venezuelan revolution, declared that becoming independent was a very serious and transcendent step that Americans were forced to take. In an intense and introspective analysis of his own transition from a loyal subject of the Spanish crown to a revolutionary supporter of independence for Venezuela, he insisted on the constitutional segregation of the Americans¹⁰.

⁸ See Josep María Fradera, *Gobernar colonias*, Barcelona, Península, 1999.

⁹ Jaime E. Rodríguez O., *The Independence of Spanish America*, Cambridge, Cambridge University Press, 1998.

¹⁰ «Yo vi desplomarse en España el edificio de su nueva Constitución. Liberal, sin duda, con el territorio de la Península, con las islas Baleares y Canarias, era muy mezquina con los países de ultramar en cuanto al derecho de representación. Por más que desde los primeros pasos de la revolución se había proclamado igualdad omnímoda de derechos, claudicaban las proclamas en la práctica, y fueron

Roscio and other «españoles americanos» —as they called themselves while demanding autonomy and Home Rule— were perfectly aware that their claims of self-government were by no means contradictory with the constitutional basis of the Spanish monarchy. Not only a number of autonomous governments had been set up during the crisis of 1808, but also the Basque Provinces offered a neat paradigm of self-government. The preliminary discourse to the constitutional project submitted to the Spanish Cortes in 1810, later approved as the first Spanish constitution in 1812, expressly referred to the Basque Provinces as the last redoubt of freedom and self-government before ministerial despotism. This discourse —written by Agustín Argüelles, a conspicuous leader of the liberal faction in the Cortes— also recognized that the system of provincial autonomy contained in the constitution had been inspired by the foral Basque system.

It can be said that what the «españoles americanos» demanded in order to re-edit a political contract with Spain after the crisis of the monarchy was just to be considered as Basques. It is not by chance that ninety years later, in 1898, the Filipino leader José Rizal in front of the execution squad in fulfillment of the death penalty imposed by the Spanish authorities, declared: «I just wanted for the Philippines a foral system like the one enjoyed by the Province of Álava». The Basque system of autonomy and self-administration seems to have played a major role as a paradigm and as a desired object for other peoples and territories in the Hispanic world. Maybe Basque modern history provided more useful constitutional information for the contemporaries of that huge Hispanic crisis than what present-day historiography usually recognizes. It might be that modern Basque history makes more sense in the context of an Atlantic crisis than under the *aranista* command of reproducing a permanent conflict with Spain.

luego desmentidas en el nuevo código constitucional. Lloré sin embargo su ruina, y suspiraba por su restablecimiento y mejora.» Juan Germán Roscio, *El triunfo de la libertad sobre el despotismo. En la confesión de un pecador arrepentido de sus errores políticos, y dedicado a desagaviar en esta parte a la religión ofendida con el sistema de la tiranía* (1817), Caracas, Biblioteca Ayacucho, 1996 p. 3.

IN SEARCH OF AUTONOMY: A BASQUE PHASE IN THE ATLANTIC CRISIS

The first phase in the transition from the Hispanic monarchy to the Spanish nation was closed by 1825 with the completion of the independence of the whole continental Spanish America. The most common term used to define what had happened, though, was not «independence» but «emancipation». The most usual image of the former metropolis, Spain, was no longer the «mother country» but a malicious step-mother was always disposed to sacrifice her daughters' happiness. The «emancipation» meant a total breaking-off between Spain and the new Spanish American republics never substituted by any kind of Spanish Commonwealth. When the constitutional revolution revived in Spain in 1836, the «nation» had been drastically reduced to the peninsular territories and the Canary and Balearic Islands. Cuba, Puerto Rico, the Philippines and other minor islands in the Pacific still remained under Spanish control not as parts of the «Spanish nation», but merely as «extra-constitutional» colonies.

That contraction from the Hispanic monarchy to Spain as we know it today by no means put an end to the essential political question opened in 1812 about the relationship between the nation and the territories. A decade after the battle of Ayacucho (1824) —that brought about the end of Spanish domination in continental America— Spain was facing again the same constitutional question. Now the challenge came from the Basque Provinces and Navarre where the so called «Cuestión de Fueros» overlapped with the civil war between liberals and absolutists. The Carlist war (1833-1839) confronted supporters of the pretender Carlos María Isidro de Borbón (Carlos V), who incarnated traditionalism and absolute monarchy, and the supporters of his niece Isabel II, a three years old girl tutored by her mother María Cristina, who was identified with liberalism and constitutional monarchy.

The majority of the eyewitnesses and contemporary political commentators and analysts —Spanish or foreigners— pointed out that the Fueros or Basque peculiar statutory system had nothing to do with the origin of the war. Actually when it began, in 1833, the Basque and Navarrese foral systems were perfectly intact not being questioned until 1837. However, by 1839 it was also clear for almost every single politician in Madrid that putting an end

to the war in the north would imply the recognition of some form of foral self-government for the Basque Provinces and Navarre. A couple of embraces rubricated the end of the war in the Basque area. The first took place in Vergara, Guipúzcoa, where the general commanders of both armies signed an agreement, known as «abrazo de Vergara», according to which the carlist army had to be demobilized while the chief commander of the queen's army—Baldomero Espartero, by far the most influential military at that time—promised to suggest that the government promote a legislation recognizing the *Fueros*.

Thus, the *Ley de Fueros* approved in October 1839 had its true origin in a military agreement rubricated by a public hug before the troops of both generals, which—like shaking hands—had a very concrete meaning in a culture of honor. «El honor de un general español está comprometido», was a sentence repeated once and again in the Congress when debating the bill presented by the government in fulfillment of the military agreement of Vergara. The first parliamentary recognition of the Basque *Fueros* is, consequently, understandable only if seen as the result of a romantic conception of honor. As a matter of fact, the Spanish Cortes reproduced during the debate of this law a romantic scenario where truly passionate characters played a political drama.

After toughly arguing for a month the progressive and the conservative branches of the Congress arrived to an impasse that, apparently, could only be solved by fighting a duel. However the romantic rules of honor foresaw a different, less violent, way of dealing with such a situation. Invoking the superior value of the Spanish nation, the leader of the progressive faction—Salustiano Olózaga—and the minister of Defense—the conservative Isidro Alaix—run to the middle of the floor of Parliament and hugged one another, while the minister of Justice—Lorenzo Arrázola—wrote down the text that would be immediately approved as the «Ley Confirmatoria de los de *Fueros* de las Provincias Vascongadas y de Navarra». Two months after the original embrace in Vergara, on October 25, 1839 the Spanish senate finally approved a piece of legislation in which the Spanish Cortes confirmed the *Fueros* of Álava, Guipúzcoa, Biscay, and Navarre. Moreover, the Spanish parliament declared that the Basque and Navarrese foral systems were perfectly compatible with the constitutional unity of the monarchy.

Unnecessary to say that the Juntas or provincial assemblies of the three Basque provinces and the *diputación* of Navarre were full of praise for the Spanish government and for the Cortes. They immediately interpreted that simple law —it had just a couple of articles— as an additional act to the Spanish constitution. Notwithstanding the fact that Sabino Arana declared this piece of legislation taboo —indelibly marking its interpretation— for Basque provincial elites there was no doubt that the Spanish Cortes had sanctioned a cohabitation of the Basque provincial constitutional peculiarities and the Spanish constitutional monarchy.

Interpreted in the context of the transition from the Hispanic monarchy to the Spanish nation, i.e. in the Atlantic scenario, the «Basque phase» informs about the possibilities of autonomy in modern constitutionalism. In sharp contrast with what had recently happened in Spanish America, the recognition of the Basque provincial self-government and its reinforcement during the following decades until 1876 revealed that centralism was not necessarily a must in the process of Spanish modern state formation, as often both, liberal and nationalist historians have taken for granted. The most salient theoretician of European liberalism in the central decades of nineteenth century, Alexis de Tocqueville, took note of the law confirming the *Fueros* in 1839 as the basis for some kind of confederal relationship between the Basque Provinces and the Spanish monarchy.

It is true that the inclusive recognition of a particular Basque provincial *nationality* and, consequently, the capacity for self-government was by no means surprising for the contemporaries. European political and constitutional thought traditionally envisaged the «Biscayan constitution» as a model of a republican and libertarian system of government. Although earlier examples could be added, let me just briefly refer to the case of John Geddes, a Scottish liberal catholic who went to Spain to support the substitution of the Jesuits in educational institutions promoted by the enlightened faction that was in power in the 1770s. A friend of the president of the Council of Castille —the top governmental and judicial institution of the monarchy— Pedro Rodríguez Campomanes, and surely advised by him, John Geddes went through the reading of what seemed to him a very rare book entitled «*Fueros, Privilegios, Franquezas y Libertades del Muy Noble y Muy Leal Señorío de Vizcaya*». Even if dated in 1527 and printed for

the first time in Burgos in 1528, it was not at all an antiquity but a code of laws that was well known and used daily in Valladolid—in the *Sala del Juez Mayor de Vizcaya* of the *Chancillería* or judicial courts—the city where John Geddes was directing the *Colegio de Escoceses*¹¹.

Geddes did not hesitate to send a copy of the *Fueros de Vizcaya* to the *Archaeological Society* of Scotland preceded by a commentary in which he identified the *Fueros* as a sample of an ancient *Celtic* constitution. Reading on the first title of the *Fueros* about the liberties of the Biscayans, the limits of their Lord's authority, and the judicial guarantees Geddes concluded that the *Fueros* could be accurately located in the same constitutional atmosphere as the ancient *Celtic* liberties sung in the *Ossian/McPherson* poems—not by chance translated into Spanish by that time in Valladolid. Probably Geddes had been delighted by the story—reproduced in his report—of the Scottish prince Jaun Zuria, the White Lord who, according to a tradition invented by Lope García de Salazar by the end of the fifteenth century, supposedly led the Biscayans to victory against the army of the king of Leon Ordoño III in the ninth century. Even if the story unmistakably smelled of invention, here Geddes had the link he needed to demonstrate the *Celticness* of the Biscayan *Fueros*.

About a decade later, the future second president of the United States of America, John Adams, wrote extensively on comparative constitutionalism in a book intended to promote some reforms in the republican government of his country. Commissioned as the representative of the government of the US before the British king, Adams became an expert in European constitutionalism. As expected from someone with a solid background in the English juridical principles, Adams' constitutional tourism was not limited to «modern» or «revolutionary» constitutionalism—which would have got him to a dessert in Europe by that time, 1785-1787. He was particularly interested in those constitutions with any useful information from a republican point of view. Thus, he studied both ancient and modern *democratic*, *aristocratic*, and *monarchical* republics. Adams included the «Biscayan republic» in the first set of

¹¹ I analyzed and translated into Spanish this text in «Locura cantábrica o la república en la monarquía. Percepción ilustrada de la constitución vizcaína», *Anuario de Historia del Derecho Español*, LXVII (vol. I), 1988.

democratic republics along with St. Marino, Holland, and some of the Swiss cantons.

Notwithstanding the notable mistakes made by Adams in his account on Biscayan government and geography, the future president perfectly understood the republican nature of the foral constitution. First, he pointed out the relevance of local powers that actually constituted a confederation of local republics. On the other hand, he also envisaged the aristocratic touch added by the *hidalgua* —lower nobility— required for political participation, which he interpreted as a lesson to be taken into account by Americans in order to avoid the perversion of democracy¹². As Geddes did, Adams thought he was before a Celtic constitutional tradition and, as for the case of the Grisons and other Swiss peoples, he stated that only in a mountainous country could such constitution remain alive.

An extraordinary essay recently published by Jorge Cañizares-Esguerra about the relationship between historiography, enlightenment, and Spanish/Creole identity in Spanish America by the end of the eighteenth century allows us to better understand the position acquired by the Basque provincial constitutions right before the Atlantic crisis of the Hispanic monarchy¹³. Following some suggestions made by David A. Brading in his masterful essay on the origins and development of Spanish American Creole patriotism, Cañizares-Esguerra analyzes the debate on the nature of American history and culture in the late eighteenth century¹⁴. Unlike in the case of Biscay, European enlightenment never recognized in the Amerindian tradition anything comparable to a particular constitution. Cornelius de Pauw, Guillaume-Thomas Raynal, or William Robertson —just to mention the three most influential authors— were interested in a critique of the Spanish colonization of America that by no means was an apology of the Amerindian peoples and their culture. All of them —as generally the European enlightenment did— took for granted that America

¹² «Thus we see the people themselves have established by law a contracted aristocracy, under the appearance of a liberal democracy. Americans, beware!»

¹³ Jorge Cañizares-Esguerra, *How to Write the History of the New World. Histories, Epistemologies, and Identities in the Eighteenth-Century Atlantic World*, Stanford, Stanford University Press, 2001.

¹⁴ David A. Brading, *The First America. The Spanish Monarchy, Creole Patriots, and the Liberal State, 1492-1867*, New York, Cambridge University Press, 1991.

was destined for European colonialism. Actually their critique was addressed to the lack of true commercial colonialism in the case of the Spanish American dominions. From this point of view none of them were really interested in knowing about Amerindian peoples and their traditions. In fact, the European enlightenment's books on America were written by authors that never stepped foot in America.

Francisco Javier Clavijero (1731-1787) wrote the most powerful answer to all these European books on America. A Jesuit, Clavijero was expelled from the Spanish monarchy in 1767 and went to Italy, where he first published his *Storia Antica del Messico* (1780-1781) later translated into Spanish and other European languages. As Juan José de Eguiara y Eguren did first, Clavijero noticed in the introduction to his voluminous treaty that the European historical essays on the Amerindian peoples and cultures had been written by authors who had never been to America and that did not know a word of American languages. They did not ever know the correct spelling of American names.

Clavijero's book is a vindication of Creole identity and, simultaneously, a vindication of the Spanish monarchy as a global system. Though introducing himself as an author who could offer a more accurate approach to Amerindian past just because of his knowledge of the country and its languages, Clavijero was not exactly interested in explaining the pre-Hispanic civil history of the American peoples. He deliberately reconstructed an ideal Mexican Mediterranean where an Aztec classicism could be recognized by European eyes. To some extent —the comparison is totally mine since he never referred to the case of Biscay— Clavijero wanted ancient Mexico to have a republican historical background comparable to the *Celtic-Basque* tradition of the Señorío de Vizcaya, or Provincias of Álava and Guipúzcoa. As his co-religious Juan de Velasco (1727-1791) did for the case of the Kingdom of Quito, the Creole point of view of Clavijero implied a recognition of the moral superiority of the Spanish conquest over the precedent Amerindian cultures.

The cancellation of the true Amerindian past was not intended, from a Creole point of view, to bring about also an invalidation of the Creole patriotic identity. On the contrary, during the following decades the development of the Creole political discourses will show that renouncing an Amerindian past was a necessary

step towards the vindication of a constitutional place in the Spanish monarchy as «españoles americanos». The writings of Servando Teresa de Mier —weird as they are— are not only the product of a lunatic mind that dreamed about the existence of Atlantis just to make it possible for St. Thomas (Quetzalcoatl) to preach in America before the arrival of the Spaniards. He also wrote on the idea of an American «ancient constitution» made out of the agreements between the Spanish monarchy and the conquistadors, the forefathers of the Creole elite. Such an American constitution was just a transmutation of the Aragonese, Navarrese, or Biscayan constitutions: a series of fundamental laws limiting the power of the king and granting liberties to the subjects.

As the Atlantic crisis of the monarchy approached, many other authors tried to make the principles of Creole patriotism acceptable to the metropolitan authorities. They never succeeded. Even the most liberal of the Spanish institutions of this period, the Cortes of Cadiz, literally ignored the Creole demands of recognition of their kingdoms and provinces as political bodies. In 1813, after the liberation of the Basque provinces from French domination, the Cortes sent a copy of the Constitution to the Juntas Generales, the provincial parliaments, to be sworn as the fundamental law of the monarchy. In sending the text to the provincial assemblies, the Cortes acknowledged the political entity of the «ancient» Basque representative institutions. The American Juntas, created in the name of Ferdinand VII as their counterparts in the Spanish peninsula, never received from the Cortes or the governments of Ferdinand VII anything other than the army to get them dissolved.

Seen from an Atlantic perspective the period opened by the law confirming the Basque Fueros in 1839 meant the realization of the autonomy that was impossible for the Spanish Americans to enjoy in the Spanish monarchy. European enlightened thought had previously admitted the idiosyncratic character of those European constitutions of territories —like the Swiss cantons or Biscay— that belonged to other major political structures. According to the descriptions offered by European thinkers that got interested in them, up to a point and even if under a monarchy or a larger confederation, any of the European territories endowed with a peculiar constitution could be said to be independent.

As stated in the «Bible» of the European international public

law, the *Droit des Gens* of Emmerich de Vattel, only those «peoples» joined together for the defense of their liberty and independence, were to be properly considered «nations». Having a proper *constitution* was, consequently a must to be taken into account in the universe of nations. Otherwise, a reunion of human beings could be a village, city, town, congregation, colony, factory, or dependency but not a «nation»¹⁵. After the war of Succession (1700-1713) and the abolition of the constitutions of the territories of the Aragonese crown (Aragon, Catalonia, Valencia, and Mallorca) with the *Decretos de Nueva Planta* (1707-1716) the only remaining territories with a peculiar constitutional identity in the Spanish monarchy were the provinces of Álava and Guipúzcoa, the *Señorío de Vizcaya*, and the *Reino de Navarra* —that decidedly supported the Bourbon cause.

The expression with which unofficially these territories were labeled, *provincias exentas* —often used in administrative documents to refer to the whole Basque and Navarrese area— denotes their constitutional singularity. The political literature used other more colorful terms like «Provincias Unidas del Norte de España», or «repúblicas provinciales». The idea —shared by a number of foreign travelers— that the Basque and Navarrese area constituted some kind of asylum for freedom and liberty in the context of a *despotic ministerialism*, was common place by the end of the eighteenth century. The first steps taken by modern Spanish constitutionalism far from breaking up with this tradition, deliberately integrated the Basque constitutional tradition into the new Spanish fundamental laws. It is not that the first Spanish constitution specifically mentioned the Basque and Navarrese peculiarities (no Spanish constitution has mentioned them until 1978), but they were an essential part of the political philosophy that inspired the constitution. The preliminary discourse with which the deputies who wrote the first constitutional draft introduced their work often referred expressly to the case of the Basque Provinces and Navarre. From a cultural point of view the Basque tradition was a core part of the constituency that gave birth to Spanish constitutional modernity. The Basque *foral* political culture was, in other

¹⁵ M. De Vattel (Emmerich De Vattel), *Le Droit des Gens ou Principes de la Loi Naturelle, Appliqués à la conduite et aux affaires des Nations et des Souverains* (1758), facsimilar edition, Carnegie Institution of Washington, Washington DC, 1916. Préliminaires § 1.

words, a valuable source of political philosophy for the first Spanish constitutionalism.

In a comparative Atlantic context the Basque phase in the process of the dissolution of the Hispanic monarchy attests the possibilities of an autonomous transition from ancient to modern constitutionalism. If passing from *Nueva España* to Mexico was impossible under any form of *Spanishness* of the *novohispana*/Mexican area, the legislation approved in 1839 for the Basque and Navarrese area induced a transition from old to new *foralidad* without breaking up with Spain. However much the urban Creole elite in Mexico pursued an integration in the «Spanish nation» resulting from the constitutional revolution performed in 1812, they were literally forced to «invent» a new political nation. As «Americanos», «Americanos del Norte», «Hijos de Anahuac», or «Mexicanos», they had to confront Spain and the Spanish nation in order to reinforce their own separate identity and their particular place under the sun of the «system of nations». As stated by the greatest military leader of the Spanish American independence, Simón Bolívar, the «Americanos» only could survive as free men if the «Spaniards» were expelled from America or killed. The «War to the Death» decreed by Bolívar was not only a military response to the Spanish reconquest of New Granada (Colombia, Ecuador, Venezuela), but also a reinforcement of American identity.

Had not the «constitutional unity» been integrated in the Spanish monarchy, something similar could have happened to the Basque territories and Navarre. The solution adopted in 1839 opened the way to a reinterpretation of the *Fueros* as a provincial identity that by the end of this period (1876) was broadly shared by Basques of different ideologies. The *nacionalidad* that the Basque conservative representative and provincial leader Pedro de Egaña exhibited before the Spanish senate in 1864 was by no means contradictory with his own *españolidad*. On the contrary, Pedro de Egaña —as other *fuéristas*— could not understand the first without the second. Emilio Castelar, the great democrat leader, in his newspaper *La Democracia* praised the discourse delivered by Egaña and spoke highly of the Basque provinces as the «Spanish Switzerland». Joaquín Jamar, a leader of the Democratic Party in Guipúzcoa, at the beginning of the revolutionary crisis of 1868 wrote a brochure in which he warmly proposed Basque foral-

idad as a paradigm of self-government for the rest of Spain. «El Fuero es la constitución de Guipúzcoa» he proclaimed similarly to what the conservative member of the Unión Liberal Fidel de Sagarminaga wrote this same revolutionary year referring to the Señorío de Vizcaya.

Between conservatives and democrats, monarchists and republicans, there was a common identity around the *foralidad* as reinterpreted to survive in a modern constitutional context. In some way the *foralidad* played the role of a constitutional agreement, a basic shared political *vascongada* identity. As the case of Navarre illustrates, this *foral* identity served also as a pathway to an autonomous evolution towards the integration in the Spanish constitutionalism. Though never accepted by Basque nationalists as a legitimate decision, in 1841 the Navarrese elite deliberately opted to follow a constitutional way totally differentiated from the Basque Provinces' own political itinerary. Taking for granted that every useful modern component of the «ancient constitution» of the kingdom had been transferred to the Spanish constitution of 1837, they were more than happy to abandon what they themselves labeled as a «feudal» residue. The law granting Navarrese autonomy was first negotiated with the *diputación de Navarra* and later approved by the Spanish Cortes in 1841, closing the evolution from ancient to modern *foralidad* symbolized in the change of the official name of the territory: from *Reino* to *Provincia* de Navarra.

In the case of the Señorío de Vizcaya and provinces of Álava and Guipúzcoa such closing of the legal evolution never formally took place. The second article of the law passed in 1839 always remained as a desideratum of a definitive «Ley de Fueros». The lack of positive legislation was, however, replaced by a permanent negotiation between the Spanish governments and the Basque *diputaciones* (provincial governments)¹⁶. More a casuistic than a legislatively projected system, the *foralidad* reinforced the political role played by provincial institutions that assumed most of the

¹⁶ See Javier Pérez Núñez, *La diputación foral de Vizcaya. El régimen foral en la construcción del Estado liberal (1808-1868)*, Madrid, Centro de Estudios Constitucionales, 1996; Coro Rubio, *Revolución y Tradición. El País Vasco ante la Revolución Liberal y la construcción del Estado español, 1808-1868*, Madrid, siglo XXI, 1996; Fernando Martínez Rueda, *Los poderes locales en Vizcaya. Del Antiguo Régimen a la Revolución Liberal 1700-1853*, Bilbao, Universidad del País Vasco, 1994.

duties of a modern administration. By the fifties and sixties of the nineteenth century the «sistema foral» was generally recognized as a model for self-administration. As many observers pointed out, the peculiarities of the Basque system could be noted just contemplating the landscape. The *baserriak* (Basque country houses) spread all over the countryside denoted the anthropological centrality of the «troncalidad» that assured the linkage between property and household producing a numerous class of small landholders and long-term tenants. The cleanliness and «good disposition» of the buildings in small towns informed of an effective system of local administration. The road system —by far more developed than in the surrounding provinces— and the investment in educational and charitable organizations —whose buildings were also part of the *foral* landscape— on the other hand, talked about the benefits of provincial self-government.

Besides the exaggerated descriptions of Antonio de Trueba —who in the fifties and sixties of the nineteenth century presented a Basque Arcadia of happy rural families enjoying working hard, praying, moderately drinking *txakoli* (wine), playing the *txistu* (flute), and dancing *zortziko*— the Basque Provinces presented an interesting case for the emergent sociology¹⁷. The *Société Internationale des Études Pratiques d'Economie Sociale* devoted a special session in 1867 to consider the relationship between «social harmony» and the foral system in Biscay. His director, Frédéric Le Play, was specifically interested in those legal frames that promoted social stability finding good examples of them —on the track of the European enlightenment— in some Swiss cantons and in Biscay.

Definitely the *foralidad* constituted a consolidated identity in the Basque Provinces by the end of its «golden age» in 1876. It was not a *national* identity since its more resolute supporters never had the slightest doubt about their belonging to the Spanish nation. It was, though, an identity equal to a *nacionalidad* or, as it was understood at that time, to a special way of being Spaniards. In other words, the *foralidad* has nothing to do with the na-

¹⁷ The conservative and naive description of Trueba is reproduced in Mikel Urkijo Goitia, *Dos aproximaciones a la sociedad vasca del ochocientos*, Bilbao, Universidad del País Vasco, 2000. The everyday fight of the Basque peasantry for survival can be followed in Enriqueta Sesmero, *Clases populares y carlismo en Bizkaia, 1850-1872*, Bilbao, Universidad de Deusto, 2000.

tionalist question of «ser o no ser» (Basque or Spanish), but with «la manera de estar» in the Spanish constitutional monarchy. This «manera de estar» consolidated in the new *régimen foral* was not based at all on racial or linguistic assumptions, but on the idea of autonomy and self-government. History, language, and customs could reinforce the idiosyncratic character of the Basques, but the crucial point was the existence of peculiar provincial constitutions. If Joaquín Jamar and Fidel de Sagarmínaga advocated for Basque Fueros in 1868 both as a constitutional reference for their own provinces and as a paradigm of sage administration for the rest of Spain, it was because both of them considered the Fueros a *constitution*.

From an Atlantic perspective the Basque phase of the Hispanic crisis constituted an important lesson. From it can be learnt, first, how relevant it was being European and not having castes or indigenous peoples in order to be admitted as an equal part of the nation. In 1867 General Francisco de Lersundi —born a Valencian but of Basque ancestry— was simultaneously defending Basque Fueros in the Spanish senate and promoting slavery and fighting autonomist factions in Cuba as *Capitán General*. Liberalism showed first its limits, then its possibilities. Secondly it can then demonstrate that centralism is not a must of the nation-State or a necessary consequence of what has been labeled as «Estado liberal». More importantly, the Basque experience of the Atlantic crisis of the Spanish monarchy can contribute to challenging the stereotyped image of the Spanish nation as founded on a Castilian identity that literally swallowed other identities. That could be the case, or better the attempt, in the following phase of the construction of the Spanish nation-State, but not from 1808 to 1876 as the Basque phase witnesses. Finally the study of the Basque foralidad from a wider perspective might eventually lead Basque historians to a liberation from the nationalist paradigm, though honestly I am not optimistic about this.