

Biscay in Tlaxcala. Provincial Traditions in the Spanish Monarchy

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BIBLID [ISBN: 978-84-8419-190-2 (2009); 165-171]

Espainiako (1812) Konstituzioaren lehen artikuluan erabaki zen Espainiako nazioa bi hemisferioetako espainiarrek osatzen zutela. Naziotasun printzipioan oinarritutako kultura politiko eta historiografikorako, baieztapen horrek ez du inolako zentzurik, nazio bakoitzak bere konstituzioa izan behar duelako. Hala ere, zentzua du konstituzionalismoa naziotasunaren aurretik jartzen duen munduan. Monarkiaren krisiaren eta konstituzionalismoaren sorreraren aurrean, Espainiako monarkiaren bi probintzia pribilegiaturen ibilbide historiko paraleloak, Europakoa bat (Bizkaia) eta Ameriketakoa bestea (Tlaxcala), interesgarriak dira konstituzionalismo goiztiarrak hispaniar munduan izan zuen esanahia ulertzeko.

Giltza-Hitzak: Konstituzionalismo goiztiarra. Euskal foruak. 1812ko Konstituzioa. Espainiako monarkiaren krisia, 1808an.

El primer artículo de la Constitución española (1812) estipulaba que la nación española estaba formada por los españoles de ambos hemisferios. Para una cultura política e historiográfica basada en el principio de nacionalidad, esta afirmación no tiene ningún sentido, ya que cada nación necesita su propia constitución. No obstante, podría tener sentido en un mundo en el que el constitucionalismo precediera a la nacionalidad. Los itinerarios históricos paralelos de dos provincias privilegiadas de la monarquía española, una situada en Europa (Vizcaya) y la otra en América (Tlaxcala), frente a la crisis de la monarquía y el surgimiento del constitucionalismo pueden resultar de interés para entender el significado del constitucionalismo temprano en el mundo hispánico.

Palabras Clave: Constitucionalismo temprano. Fueros vascos. Constitución de 1812. Crisis de la monarquía española 1808.

Le premier article de la Constitution espagnole (1812) déclare que la Nation espagnole est formée par les Espagnols des deux hémisphères. Pour une culture politique et historiographique fondée sur le principe de nationalité, cette affirmation n'a aucun sens, puisque chaque nation doit se doter de sa propre constitution. Elle pourrait toutefois avoir un sens dans un monde où le constitutionnalisme précéderait la nationalité. Les itinéraires historiques parallèles de deux provinces privilégiées de la monarchie espagnole, l'une située en Europe (Biscaye) et l'autre en Amérique (Tlaxcala), peuvent s'avérer intéressantes, face à la crise de la monarchie et à l'apparition du constitutionnalisme, pour comprendre la signification du constitutionnalisme précoce dans le monde hispanique.

Mots Clé : Constitutionnalisme précoce. Fors basques. Constitution de 1812. Crise de la monarchie espagnole en 1808.

By the end of the nineteenth century, the father of Basque nationalism, Sabino Arana, proposed an interpretation of Basque history based on a permanent confrontation between the Basque Country and Spain. Supported by a weak historical argumentation, Arana stated that the history of the Basques was a history of conquest and domination by Spain concluded by the nineteenth century. Surprisingly Arana did not point to the law passed by the Spanish parliament in 1876, which in fact abolished the special statutes of the Basque Provinces, but to a very different piece of legislation passed in 1839 as a law sanctioning the Basque Fuegos¹.

The only reason why Arana could not accept the law confirming the Basque foral system in 1839 was its capacity to integrate the Basque constitutional peculiarities in the Spanish constitutional monarchy². As a consequence the history of the nineteenth century could only be an account of a conflicting relationship between Spanish constitution and Basque Fuegos in which the second had been finally run over by the first. Therefore, for Arana and for the Basque nationalist movement to the present time as well, the only possible end of history resides in the recovery of the Fuegos reinterpreted now as the independence of Euzkadi, the Basque Nation³.

In a sense, this perspective has proved to be very successful. Most of the scholars, historians and political scientists as well, would even today accept that the history of the nineteenth century in the Basque Country is defined by some kind of contradiction between Basque Fuegos and Spanish Constitution⁴. It was not at all the case until the time of Sabino Arana. Basque *literati* and politicians supported the idea of a constitutional complementation between Basque laws and the Spanish constitution. In my opinion, the reason for such divergent interpretations of Basque modern history is that they simply were closer than us to the Atlantic experience of the crisis of the Spanish monarchy.

The frescos painted by Desiderio Hernandez on the walls of the Council Chamber in Tlaxcala city tell us the history of the Tlaxcalan Republic, today

1. I do not translate the Spanish Word Fuegos, because there is not an English expression for it. Generally speaking, Fuego or the plural Fuegos means a set of statutes and special laws for the government of a corporation (social, local, or territorial). I refer to those legal bodies as a whole as Basque Fuegos but it must be reminded that each of the Basque Provinces (Alava, Guipúzcoa, and Biscay) had its own an independent legal system.

2. I have developed this argument in PORTILLO, José M. "El miedo a la constitución. Por una historia posnacionalista de la identidad foral vasca", *Claves de la Razón Práctica*, 133, 2003.

3. There is a huge literature on this topic. See for an accurate approximation CORCUERA, Javier. *Orígenes, ideología y organización del nacionalismo vasco, 1876-1903*, Madrid: Taurus, 2001.

4. I refer to the best essays recently written on the evolution of Basque fuegos in modern constitutionalism: CLAVERO, Bartolomé. *Fuegos Vascos. Historia en tiempo de constitution*, Barcelona: Ariel, 1987; FERNÁNDEZ SEBASTIÁN, Javier. *La génesis del fuerismo. Prensa e ideas políticas en la crisis del Antiguo Régimen, 1750-1840*, Madrid: Siglo XXI, 1991; RUBIO, Coro. *Revolución y tradición. El País Vasco ante la revolución liberal y la construcción del Estado español*, Madrid: Siglo XXI, 1996.

the tiny State of Tlaxcala, Mexico. These wonderful frescos reproduce the commonplaces of the Tlaxcalan historical and political tradition: one of them shows the republican life before the arrival of the Spaniards, followed by a painting of the four *caciques* or governors of the republic escorting Cortés on his way to Mexico-Tenochtitlan. Hernández's paintings reproduced once and for all the essentials of the Tlaxcalan traditional political discourse: the republic was not subjugated by conquest but of its own volition incorporated as an ally into the Spanish monarchy. In a different sequence of the frescos Hernández painted the Tlaxcalan deputy to the Spanish Cortes that delivered the first Spanish constitution in 1812. José Miguel Guridi Alcocer holds a piece of paper containing the third article of the constitution that proclaimed national sovereignty. It certainly is an allegory of the autonomy of Tlaxcala, like the frescos as a whole.

Biscay, like the other two Basque Provinces, along with the kingdom of Navarre, would achieve a formal recognition of their own provincial laws by 1839. Tlaxcala would be reduced to a "territory" in the Mexican constitution of 1824 and would remain in such a subordinate condition until 1857 litigating with Puebla, the major neighboring state. For Biscay and Tlaxcala the experience of constitutionalism was radically different. However, by the time of the crisis of the Spanish monarchy and the first Atlantic constitutional culture, things could have been different.

1. BACK TO THE BEGINNING: AMERICA

A reinterpretation of the place of Basque history in the context of the history of the making of Spain requires, in my opinion, reconsidering the concepts of autonomy and independence as a structural fact in the history of the dissolution of the Hispanic monarchy⁵.

Considered in the context of the Atlantic revolutions and modern constitutionalism, the experiment performed in Cadiz between 1810 and 1812 by an uncertain number of deputies who claimed to represent the whole monarchy from Barcelona to Manila was absolutely unique. Never before and never again did a constitution attempt to transform a whole ancient empire into a new single nation. Stating that the "Spanish Nation" was a gathering of Spaniards spread over three different continents was undoubtedly more a political dream than a practical definition, as Jeremy Bentham pointed out in 1820⁶. However, this wishful thinking showed itself to be a powerful engine for the making of republics, nations, and states: in less than fifteen years more than ten different and separate political entities had been created out

5. For an extended version of this argument PORTILLO, José M. *Crisis Atlántica. Autonomía e Independencia en la crisis de la monarquía española*, Madrid: Marcial Pons-Fundación Carolina, 2006.

6. See CLAVERO, Bartolomé. "Libraos de Ultramaría. El fruto podrido de Cádiz", en INURRITIGUI, José M.; PORTILLO, José. *Constitución en España. Orígenes y destinos*, Madrid: CEPC, 1998.

of the “Spanish nation” defined in Cadiz in 1812. Spain itself was no more than one of these “new republics” emerging from the collapse of the Hispanic monarchy⁷.

The Hispanic way to constitutional modernity reflected a contradictory relationship between two concepts. The *Nation* was the new expression of the political compact and the *Pueblos* were the only known and accepted political communities. It was in the process of negotiating nationality with different *Pueblos* of the monarchy that the Spanish nation lost the majority of its territory as defined in 1812. The metropolitan governments, both liberal and absolutist, never accepted the whole political consequence of defining all the Spaniards from both hemispheres as “Spanish Nation”, as the first article of the Spanish constitution did.

That fact made possible a drastically different experience of the constitutional revolution of Cadiz on both sides of the Atlantic. For the Peninsular territories it amounted to a revival of territorial autonomy, as the cases of Catalonia and Asturias testified. For the American rim of the “Spanish nation”, on the contrary, it was an experience of inequality and of negation of autonomy. To put it briefly: the inhabitants of the Peninsula were admitted to the Spanish nation while the Americans were literally expelled from it. As stated by one of the most interesting characters of the time –the Mexican Servando Teresa de Mier– the *americanos* had already been expelled from the Spanish Nation even before the latter was defined constitutionally. The metropolitan authorities never accepted that the *americanos* could take part in the “provincial revolution” against Napoleon. The official exclusion of Cuba, Puerto Rico and the Philippines from the constitutional nation in 1837 will demonstrate that Spanish liberalism –like European liberalism in general– never accepted that *liberal* principles could be liberally implemented also in their non-European dominions⁸.

The experience of early liberalism in Spain, however, presents a more complicated itinerary than –as the French constitution of 1791 did– declaring the colonies non-constitutional territories, or than –as the British government did– 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 deputies to the Cortes (parliament) as the European provinces did. Spanish liberals, however, hardly could accept their American counterparts to be effectively equals to them. 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

7. GUERRA, François-Xavier; ANNINO, Antonio. *Inventando la nación. Iberoamérica en el siglo XIX*, México DF: FCE, 2003.

8. FRADERA, Josep M. *Colonias para después de un imperio*, Barcelona: Bellaterra, 2005.

African ancestry and “non-civilized Indians”) decreasing the American elites’ political relevance. In doing so Peninsular liberalism proved to be absolutely unable to share the nation with any other non-European territories. From that point onwards, the remaining American and Asian Spanish dependencies officially were considered “dominions” and treated as colonies⁹.

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. But this result should not be taken as a situation desired by American elites from the beginning of the crisis. On the contrary, the political discourses of the urban Creole elites that promoted the declarations of independence were originally closer to autonomy and Home Rule than to independence¹⁰. 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 of autonomy instead of independence.

It can be said that what the “españoles americanos” demanded in order to redraft a political contract with Spain after the crisis of the monarchy was just to be considered as if they were Basques. It is not by chance if ninety years later, in 1898, the Filipino leader José Rizal facing the execution squad drawn up to enforce 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 those who lived through that huge Hispanic crisis than 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 nationalist mandate of conceiving a permanent conflict with Spain.

The cases of Tlaxcala and Biscay offer an invaluable laboratory to check differences between Spaniards and Americans in the experience of autonomy. Both were officially considered *provinces* of the Spanish monarchy and both had been incorporated directly under the crown. As a consequence, both Biscay and Tlaxcala were not part of a patrimonial dominion but “partes principales” –essential parts– of the monarchy of the *Rex Catholicus*. The inclusion of several special laws for Tlaxcala in the *Recopilación de Leyes de los Reynos de Indias* (1680), demonstrated that, like Biscay, it was considered as enjoying some kind of special statute or *Fuero*.

9. See FRADERA, Josep Maria. *Gobernar colonias*, Barcelona: Península, 1999.

10. RODRÍGUEZ O., Jaime E. *The Independence of Spanish America*, Cambridge: Cambridge UP, 1998; CHUST, Manuel. *La cuestión nacional americana en las Cortes de Cádiz*, Valencia: Fundación Instituto de Historia social, 1999.

More than fifty years ago Charles Gibson explained the formation of the “Fuero de Tlaxcala” from 1535 to the end of the sixteenth century¹¹. Those privileges included titles –both, personal and collective– exemptions, and the recognition of a special statute for the government of the province. Gibson also stressed how often viceroys and other Spanish authorities ignored Tlaxcalan privileges, above all those related to taxation and Indian forced labor. On the other hand, Gibson’s essay showed how important negotiating was for the consolidation of the image of Tlaxcala as a privileged province.

Starting out from a substantially different position, the Lordship – Señorío– of Biscay also reinforced its position as a privileged political body in the Spanish monarchy¹². Obviously Biscay had not to deal with a “subaltern” position derived from conversion and cultural difference: it was an old Christian territory. In addition Biscay had its own statute reformulated and sanctioned by the Spanish king in 1527. However, Biscay sought acceptance of a more republican interpretation of its own constitution by the Spanish court towards the end of the sixteenth century. The discourse used by Biscayans was quite similar to the Tlaxcalans: loyalty, voluntary union to the Crown –not to the realm–, continuity in the “commonwealth” form of government stemming from a peculiar civil history, and, above all, the unquestionable Catholic faith of all the inhabitants of the territory.

These two foral –privileged– territories of the monarchy used different ways of enhancing their political qualities. Biscayans based their strategy more on the influence of the Basque scribes –secretaries and officials– in the Spanish royal court, along with a permanent use of legal discourses¹³. Tlaxcalans also made use of these tools –they sent at least six different embassies during the sixteenth century from Tlaxcala to Spain in order to meet personally with Charles I and Philip II. But, as a recent research by Jaime Cuadriello demonstrates, Tlaxcalan privileges and special status in the context of the kingdom of New Spain were defended above all through the means of art. Pictures representing the baptism of the caciques of the republic, bas-reliefs reproducing royal and Indian-noble symbols, or frescos transmitting the idea of a Tlaxcalan *hidalguía* –gentry– composed a compact set of “glories of the Republic of Tlaxcala”, as Cuadriello labeled it¹⁴.

The relevant fact for us is that by the end of the eighteenth century Tlaxcalans and Biscayans showed an evident consciousness of being spe-

11. GIBSON, Charles. *Tlaxcala in the Sixteenth Century*, New Haven: Yale UP, 1954. See for an exhaustive analysis Andrea Martínez Baracs, *Un gobierno de indios: Tlaxcala, 1519-1750*, México DF, FCE, 2008.

12. MUÑOZ DE BUSTILLO, Carmen. “La contribución castellana a la invención histórica del concepto de hidalguía universal”, introductory essay to the critical edition of GUTIERREZ, Juan. *Fueros Vascos: fundamentos de derecho (1593)*, Madrid: CEPC, 2006.

13. JUARISTI, Jon. *Vestigios de Babel. Para una arqueología de los nacionalismos españoles*, Madrid: Siglo XXI, 1992.

14. CUADRIELLO, Jaime. *Las glorias de la república de Tlaxcala*, México: UNAM, 2004.

cial commonwealths incorporated in the crown of the *Rex Catholicus*. During the crisis of the monarchy, from 1808 onwards, the political effects of the “republican memory” were perfectly visible. Like the tiny lordship of Molina de Aragón –located in the province of Guadalajara, Spain– Tlaxcala claimed representation as a province in its own right. As a matter of fact a Tlaxcalan –Miguel de Lardizábal, a pro-absolutist official– was the deputy of New Spain to the Junta Central, and the influential liberal José Miguel Guridi Alcocer was the deputy of Tlaxcala to the Spanish Cortes in Cadiz.

When the American deputies to the Spanish parliament filed a claim for equal representation, the Tlaxcalan deputy played a major role. In January 1811, Guridi Alcocer vividly defended the proposal of an official declaration of equality between Spaniards from Europe and America before the parliament began the constitutional debate. In fact, like other Americans, he was claiming a prior recognition of American territories as constituent parts of the monarchy, just as Biscay, Navarre, or Aragon were commonly considered.

It is not a chance at all that Guridi Alcocer, a priest, wrote and published at least three different sermons on Our Lady of Guadalupe. As David Brading has demonstrated, Guridi followed a patriotic discursive line that fixed on our lady of Guadalupe as one of the symbols of the perfection of the kingdom of New Spain¹⁵. As a Tlaxcalan, it had an eye on an even deeper meaning since Tlaxcala had always been considered the “first pulpit” in America. Like Basque apologists of the “provincial constitution”, Guridi, Servando Teresa de Mier and other Mexican public writers insisted on the purity of American Catholic faith as the first and more remarkable symbol of the political perfection of their communities.

However, after the onset of modern constitutionalism in 1812 the fortune of Biscay and Tlaxcala –as paradigms of European and American territories followed paths totally different. Biscay, like the other two Basque provinces of the Spanish monarchy, achieved in 1839 a formal recognition of its own capacity for self-government. Tlaxcala, on the other hand, was to be downgraded to the condition of a “territory” in 1824. Behind such different experiences of modern constitutionalism there was above all a cultural reason (the failure of early liberalism to accept equality as an extended political principle), and a historical reason as well. How different territories had been incorporated into the complex political puzzles, usually called empires, revealed itself as a key factor determining their evolution in the context of the new nations and republics¹⁶.

15. BRADING, David. *Mexican Phoenix*, Cambridge: Cambridge UP, 2001.

16. BUVE, Raymond. *Autonomía, religión y bandidaje. Tlaxcala en la antesala de la guerra de reforma, 1853-1857*, México DF: CEHM CARSO, 1996.