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Alfons Aragoneses*

Uses of *Convivencia* and *Filosefardismo* in Spanish Legal Discourses

* Universitat Pompeu Fabra, Barcelona / Max Planck Institute for European Legal History, Frankfurt am Main,
alfons.aragoneses@upf.edu

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Abstract

References to *convivencia* displayed, and still perform, different functions in historical, political, and social discourses in Spain. The use of the concept popularized by Américo Castro, and others before him, was a reaction to a political and cultural context and had a political meaning as well. Therefore, these intellectual creations need to be contextualized and analyzed critically. My aim in this text is to analyze the uses of *convivencia* in legal and political discourses in 19th and 20th centuries as well as today.

In the following pages, I describe the historical trajectory of *convivencia* in Spain and its reflection within the legal and political culture as well as the nation-building process. I mostly focus on the representations of Sephardic Jews in contemporary Spain and the Middle Ages by the Spanish intellectual and political elites. Following suggestions made by David Nirenberg, I consider how the references to Jews and to Judaism affected Spanish society, how the Spanish »Jewish question« influenced legal and political thought, and shaped national identity in Spain. I analyze parliamentary discourses, legal texts, and other intellectual productions by the Spanish elites from the mid-19th century until today.

Keywords: *filosefardismo*, *convivencia*, Sephardic Jews, nation building



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Introduction: actualizing *convivencia* within Spanish Law

In 2015, the Spanish Parliament passed a law granting Spanish citizenship to »Sephardic Jews with origins in Spain«. According to its Preamble, the law aimed at being »a point of reunion between the Spaniards of today and the descendants of those who were unjustly expelled from 1492«. One sentence of this preamble is especially interesting for us: according to it, the aim of the law is to create »a new space of living together [*convivencia* in the original] and concord«. ¹

This was not the first time a Spanish lawmaker had used the word *convivencia* to refer to the coexistence of Jews, Muslims and Christians in the Middle Ages. In 1924, the government of the Dictator Primo de Rivera also opened the possibility for Sephardic Jews to access Spanish citizenship. The lawmaker wanted to facilitate nationalizing the Sephardic Jews of Eastern Europe. This was justified on the basis of »ethnic and historical ground of long living together« [*convivencia* in the original]. ²

The legislator in these two cases mentioned »convivencia«, giving to the term a specific meaning: the one used by Spanish intellectuals at the end of 19th century and beginning of the 20th century but also by the famous Historian Américo Castro to refer to an imagined peaceful and harmonious living together of Jews, Muslims and Christians in medieval Spain. However, the Muslims, Jews or Christians who lived in Spain between the Arab-Islamic conquest in the 8th century until the expulsion of Jews in 1492 and *Moriscos* in

the 17th century did not define their vital experience with this word. The concept »convivencia« is a construction elaborated by Spanish intellectuals between the end of 19th century and the first half of the 20th and canonized by Américo Castro in his book *España en su historia, judíos, moros y cristianos*. ³ As Raja Sakrani reminds us

»Since Américo Castro and even well before him, *Convivencia* has incessantly been pulled every which way. It is the enigma to be unravelled, the historical reality that has been buried for a long time, it is the religious syncretism, the exaggerated social and cultural symbiosis, it is the myth of tolerance, the myth of the Spain of three cultures, the »romanticization« of Islam, the lyrical »nonsense«, the camouflaged violence under a fantastical myth and it is even apartheid.« ⁴

Therefore, the reference to *convivencia* displayed and still performs different functions in historical, political or social discourses. The use of the concept popularized by Américo Castro and others before him was a reaction to a political and cultural context and had also a political meaning. Many reactions to Castro's book from Spanish historiography did not consider this context or the fact that history in Spain experienced a belated process of professionalization and scientific differentiation. Therefore, their intellectual creations need to be contextualized and analyzed critically. My aim in this text is to analyze the uses of *convivencia* in legal and political discourses in 19th and 20th centuries and today.

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lemas constituyentes de la España contemporánea« (Reference: DER2014-56291-C3-1-P).

1 Ley 12/2015, de 24 de junio, en materia de concesión de la nacionalidad española a los sefardíes originarios de España, BOE 51, 25/06/2015, 52557–52664.
2 Real decreto concediendo un plazo que, improrrogablemente, finará en 31 de Diciembre de 1930, para facili-

tar la naturalización de individuos de origen español que vienen siendo protegidos como si fueran españoles, y aclarando para ello el sentido de los preceptos legales que expresamente se mencionan, Gaceta de Madrid 356, 21/12/1924, 1322–1323.

3 CASTRO (1948).

4 SAKRANI (2016) 6.

In the following lines, I describe the historical trajectory of *convivencia* in Spain and its reflection in the legal and political culture and the nation-building process. I will focus mostly on the representations of Sephardic Jews in contemporary Spain and the Middle Ages by the Spanish intellectual and political elites. In doing so, I consider not only the presence of Jews and Muslims in contemporary Spanish law and society but also, and especially, following the suggestions of David Nirenberg, how the references to Jews and to Judaism affected Spanish society, how the »Spanish Jewish question« influenced legal and political thought and shaped national identity in Spain.⁵ The actual Jews or Muslims, their presence and their role in contemporary Spanish society are only secondary because the object of analysis is an intellectual construction elaborated by non-Jewish authors in a country with almost no Jews or Muslims since the invented Jews were part of a project by the Spanish elites to position themselves and navigate different realities of their time.⁶

To trace this reinvention of the medieval *convivencia*, I analyzed legal and political texts – I have already mentioned the Preamble to the 2015 law and the Decree of 1924. I will also refer to other legal and administrative texts and parliamentary debates. Furthermore, I will study other legal and administrative texts and parliamentary debates, whose discourse about interpretation and/or legitimacy fulfilled important social and political functions in 19th-century deliberations. In so doing, I seek to understand the role of these legal and political discourses in the formation of contemporary Spain.

Convivencia: as a case of memory of the Law

By making references to the past, social discourses create their own memory. For the purposes of this research it does not matter if this past is real, mythical or a mixture of both. The object of this study is not the coexistence of religious communities in the Middle Ages but the re-production or re-construction of *convivencia* in social discourses in 19th and 20th centuries, especially in legal dis-

courses as well as in parliamentary debates. I observe the reconstructions made by observers of 19th and 20th centuries and how they work in the construction of a contemporary Spanish legal system and also in the construction of collective identities in Spain.

Therefore, the tools of historical anthropology and global legal history are here of great usefulness. Christian Giordano named the social process of invention of the past from the present as »actualized history«, which is »interiorized history in use« in the present.⁷ According to him, actualized history operates with symbols, myths constructions and inventions. It can be an instrument of domination or a strategy of resistance, an object of identification or an element of social cohesion. It can be more or less conscious, combines myth and reality and always produces effects in the present. Clifford Geertz considers that »all collectivities have a cognitive capital referred to its own past and which represents the basis of a particular conscience or historical sensibility«. ⁸ »Actualized history is therefore – says Giordano – an essential component in the basic social processes in which the members of the community are involved.«⁹ The actualization of the past helps to create social consensus to support the political institutions in a society.

The studies on the actualized history interest legal studies too since Law, as a social system, also makes references to the past, what I recently called the memory of the Law.¹⁰ In the words of Raffaele de Giorgi¹¹ and Marie Theres Fögen¹² this memory influences the normative content and also has an enormous potential of transformation of the social reality. As De Giorgi stated, the memory of Law does not reconstruct a given moment in time but rather creates a second moment anew.¹³ For our purposes, the studied Spanish Laws in 1924 or 2015 or the political discourses of 19th and 20th centuries do not reproduce the time of medieval coexistence in Spain but rather create a new medieval time *convivencia*, the one to be studied here.

Modern Law is a normative order but also, as stated by Clifford Geertz, a system of beliefs regulating behaviours but also creating them.¹⁴ Law displays effects in societies of individuals with

5 NIRENBERG (2013) 2; COHN (1967) 16, quoted by NIRENBERG (1996) 4.

6 NIRENBERG (2013) 5.

7 *Ibid.*

8 GEERTZ (1983) 175. Quoted by GIORDANO (1996) 104.

9 GIORDANO (1996) 106.

10 ARAGONESSES (2018).

11 DE GIORGI (2004) 143.

12 FÖGEN (2002) 10.

13 DE GIORGI (2004) 143.

14 GEERTZ (1983) 215.

values, ideologies and also emotions who are supposed to obey it. Therefore, law has to create social consensus among the laws and the political institutions producing them. References to the past help to generate or reinforce social support to law by appealing to the mythical origins or the moral values of the community. The decisions of the legislator do not offer »objective« or »value-neutral« insight into the workings of law, neither for the past nor the present, but an overly rationalistic, eurocentrically (or »occidentally«) limited and politically biased one.«¹⁵ Thomas Duve recently proposed observing the different dimensions of legal discourses for better understanding the different functions – cultural, normative, symbolic – displayed by legal discourses.¹⁶

To use the words of António Manuel Hespanha, legal concepts need to be »appropriated by social and cultural strata.«¹⁷ These legal concepts »receive influences and connotations from different levels of language (ordinary language, ethical, religious, political, medical discourses)«. ¹⁸ Historical re-constructions are here very important: they are stronger than prescription in creating or re-enforcing ties of solidarity in the society.

This is one reason why it is necessary to understand the meaning of *convivencia* in the different historical moments since the beginning of the 19th century until today. The actualization of the medieval past in/by the Spanish law is only the legal reflection of the reconstruction of the past operated by social actors in contemporary Spain. What matters here is to understand the function played by these operations in the legal and the political systems and in the construction of collective identities in Spain.

Using the words of Aleida Assmann, if »we define ourselves through what we remember and forget« and »the construction of identities means also construction of memories«, ¹⁹ the reconstruction of medieval Spain played a fundamental role in 19th-century process of creating Spanish collective identities. The Spanish »imagined community«²⁰ used references to the past to define itself. In general, liberals and republicans advocated a

tolerant, open Spain based on the idea of religious tolerance and model of coexistence of the three religions in the Middle Ages. Américo Castro also appears in 1948 to be thinking about Spanish national identity and the causes of the intolerance that led to the civil war and to his own exile. He is actualizing *convivencia* to describe his national community in the present.

These tools of legal anthropology and global legal history are the ones I will use to study the actualization of *convivencia* in political and legal texts and their function in the construction of collective identities in contemporary Spain. I will start by analyzing the scarce references to medieval *convivencia* between 1812 and 1868; I will then present the explosion of discourses reproducing the myth of peaceful coexistence during the parliamentary debates that legally redefined Spain between 1868 and 1876. Thereafter, I will shortly present the references to *convivencia* during the Spanish Republic and Francoism and will finish by studying the references to the past contained in the already mentioned Decree of 1924 and the Law of 2015 which refer to *convivencia* as a positive experience of Spanish history.

Here we will pay special attention to preambles. Following Marie Theres Fögen, they have a political and symbolic dimension that merits analysis.²¹ According to her, preambles, or »Songs of the Law«, as she calls them, appeal to *pathos* through the ostentatious decoration of laws.²² The »preambles«, »expositions of motives« or »introductions«, often contain the political or moral justification of the law and shed light on its particular context. While not exactly art, the preambles are in a way the symbol of the law or a political project implicit in it. It can also express the political projection or the perception of reality of the legislator that escapes translation into rules. Lacking directly applicable legal rules, the preambles also represent the will of the State. They are, as Fögen explains, part of the song of the legislator »shouting that what follows is not mere violence but rather beautiful and useful.«²³ Therefore, preambles mentioning *convivencia* will be studied here.

15 KROPPENBERG/LINDER (2014) 75.

16 DUVE (2015) 51.

17 HESPANHA (2004) 43.

18 *Ibid.*

19 ASSMANN (2009) 62.

20 ANDERSON (1983).

21 FÖGEN (2007); I used here the Spanish translation FÖGEN (2013) by

FEDERICO FERNÁNDEZ-CREHUET.

22 FÖGEN (2007) 20 ff.

23 FÖGEN (2007) 20.

1812–1868: building the Catholic Nation

Following the departure of thousands of Jews from the territory controlled by the Catholic Crown in 1492 and that of thousands of Muslims (1502/1526) or converted Muslims in 1614, there remained almost no Jewish presence to speak of in what today constitutes Spain. However, Muslims and Jews and their descendants, as explained by Antonio Feros, »occupied a special place in the collective imagination of Spaniards, as demonstrated by the vast number of publications devoted to both«. ²⁴ The attention of the religious and civil authorities focused then on the category of the *conversos* (converts). ²⁵ The Expulsion in 1492 was supposed to solve the »Jewish problem« but a larger, long-term problem took its place: the discrimination against and hatred for the »converts« or *Marranos* by the »Old Christians«, which lasted in some areas until the 19th century. Spanish identity was rooted in Catholicism and Spanish meant Christian, or more precisely Old Christian, as opposed to the »New Christian« converts from Islam or Judaism. ²⁶ Following David Nirenberg, the presence of converted Jews »transformed the old boundaries of discrimination«. It was believed that »Christians who descended from Jewish converts ... were essentially different from Christians by nature«. ²⁷ These approaches to *conversos* did not disappear in the 17th and 18th centuries but their importance tended to diminish in contrast with growing anti-Semitic discourses. ²⁸

Liberal revolutions were supposed to eliminate all the different regimes of the corporatist society by creating societies of citizens who were formally equally before the Law. The Jewish question was a major issue in almost every country transitioning towards some form of liberalism, as explained by David Nirenberg ²⁹ and shown recently by Kenneth Stow for the case of Italy. ³⁰ Ultimately the Jews were emancipated, became citizens and gained the exercise of certain rights. Contrary to

this first generation of individualistic European constitutionalism, Spanish liberalism was born of a fusion between liberal ideas and Catholicism, and from the identification of the concepts »Spanish« and »Christian Catholic«. ³¹

The first Spanish Constitution was proclaimed in Cádiz in 1812, during the war on independence from the French occupiers which has been considered by historians the founding moment of the Spanish nation. ³² The Constitution was the product of the alliance between liberals and Absolutists in this war context. This is why it could be considered as the first liberal-constitutional text or as the last *Ancien Régime* one: it has liberal and also traditional elements from absolutism. Its Article 12 is a good example of the latter:

»The religion of the Spanish nation is, and ever shall be, the Catholic Apostolic Roman and only true faith; the State shall, by wise and just laws, protect it and prevent the exercise of any other.«

This article should not be interpreted as an extravagant or exceptional one in a liberal constitution. Following José María Portillo, Article 12 was »one of the wheels that made the whole system work« and the way to »make «the transition from the Catholic monarchy to the Catholic nation as political subject«. ³³ Religion and Constitution were compatible only if the nation considered itself as Catholic. Catholicism became, together with the monarchy, an essential element in the definition of the Spanish nation. It was possible, says Portillo, »that Catholic religion became a necessary sign of Spanishness (*españolidad*) and of the Spanish citizenship«. ³⁴ In the words of Portillo, this article and the whole Constitution allowed the transition from Catholic Monarchy to Catholic Nation. ³⁵

The original constitutionalism in Spain thus left no place whatsoever for Jews, Protestants or Mus-

24 FEROS (2016) 76.

25 NIRENBERG (2013) 217–245;

AMELANG (2013); FORSTER (2007);

ÁLVAREZ CHILLIDA (2007); PEREZ

(2005) 161 ff.

26 INGRAM (2009) 339–340. Also OJEDA-

MATA (2015); HERNÁNDEZ FRANCO

(2011).

27 NIRENBERG (2014) 177.

28 FEROS (2016) 91.

29 NIRENBERG (2013) 361 ff.; BADINTER

(1989).

30 STOW (2016) 5.

31 HERZOG (2003).

32 ÁLVAREZ JUNCO (2002) 119. Also

ÁLVAREZ JUNCO (2016) 155 ff.

33 PORTILLO (2008) 20.

34 PORTILLO (2008) 22.

35 *Ibid.*

lims at the outset of Spanish liberalism. It is true that some representatives in the *Cortes* felt the Catholic Religion should be imposed on all Spanish citizens, not just on the abstract idea of »Spanish Nation«.

These first years of the 19th century were very important for the construction of the idea of Nation. The idea of nation contained in the first Constitution, that of the »reunion of all Spaniards from both hemispheres«, is similar to the definition of nation made by the French revolutionaries who tried to develop a sense of civic nationalism. But, as in France, Spanish »ethnic nationalism« came to coexist with »ethnic nationalism« and with Catholic religion in the configuration of national identity. The tension between »two competing, intersecting, overlapping, and, more often than not, mutually reinforcing system of ideas born in the eighteenth century« and the Catholic religion will be felt throughout the 19th century and beyond. The liberal discourses oscillated between the ethnic nationalism of the judeophobe Antoni de Capmany,³⁶ and others like Agustín Argüelles who advocated for liberal principles.

The nationalistic discourses identifying faith and national community, although hegemonic, co-existed with a more civic one based on the idea of nation by the French revolutionaries. As shown by Stephen Jacobson, Spanish civic and ethnic nationalisms were »two competing, intersecting, overlapping, and, more often than not, mutually reinforcing system of ideas«. ³⁷ Both narratives about the Spanish nation made references to history. It is important here to determine which reconstructions of history were used by the different nationalistic discourses.

Agustín de Argüelles represents the Spanish Liberals' idealized version of the Middle Ages.³⁸ For Argüelles, the various medieval *fueros* – the local legal systems of the different cities – recognized personal freedoms and national sovereignty. Accordingly, democracy and fundamental rights had existed in the Middle Ages. For Argüelles the Constitution represented a continuation of this medieval tradition of the »free and independent Nation« that was partially destroyed after the 15th

century.³⁹ In other words, the Spanish political tradition had been democratic and liberal until the foreign Hapsburgs occupied the Spanish throne in Spain.

Argüelles' preliminary *Discurso* of 1812 is highly important because it is one of the first political texts making references to the Middle Ages. Many of the discourses after his refer to medieval history as a time of intolerance, others as tolerant; some emphasize the importance of 1492, and others minimalise it. Regardless, the revision of historical accounts of medieval Spain became a contested space for political discourse of all Spanish nationalisms.

This explains why the romantic liberal José María Blanco White may have been the first to write, from his English exile, about religious co-existence in the Middle Ages, criticizing the expulsion of Jews and its consequences for the formation of the Spanish Nation.⁴⁰ This romantic revisal of medieval Spain would become, after the defeats of liberalism in 1814 and 1823, an instrument in liberal thought and the origin of the idealization of medieval religious tolerance as opposed to the intolerance of the modern times, marked by the expulsion of Jews and Muslims and the hegemony of the *Inquisición*.

After the defeat of the first Spanish liberalism in 1823 and until 1868 the intellectual elites did not question the centrality of religion in the definition of the Spanish Nation. The 1830s and 1840s are the moment where the first intellectual reconstruction of medieval tolerance appeared. Two authors that deserve mention in this context are José Amador de los Ríos and Adolfo de Castro y Rossi. Amador de los Ríos wrote his book *Estudios históricos, políticos y literarios sobre los judíos en España* in 1848.⁴¹ In 1847 De Castro published his *Historia de los judíos de España*, praising the Sephardim and condemning the expulsion and the Inquisition.⁴²

According to anthropologist Maite Ojeda, their works must be understood in the context of a »process of political opening, in relation not only to Jews but also to other discriminated groups as well«. ⁴³ They are, according to Ojeda, »the first revisionist writings of the history of Jews in Spain«. ⁴⁴

36 DE CAPMANY (1808).

37 JACOBSON (2006) 227.

38 DE ARGÜELLES (1812, 1981). See the study of the preliminary speech by LLOREDO-ALIX (2014).

39 DE ARGÜELLES (1812, 1981) 76.

40 SUBIRATS (2000) 329.

41 DE CASTRO (1847); DE LOS RÍOS (1848).

42 QUOTED BY PEREZ (2005) 291.

43 OJEDA MATA (2006) 59.

44 *Ibid.*

Their ideas cannot, however, be described as characteristically modern, as in the case of Amador de los Ríos.⁴⁵ Nevertheless these books were the first attempts to alter the anti-Semitic vision of the Jews in Spain and made Spaniards for the first time discover the Jewish past of their country.

This moment is also when authors use the term »raza« to refer to the community of Spanish-speaking Catholics living in Spain or in Latin America as opposed to the Anglo-Saxon or Germanic race. This influenced also the construction of the concept of Sephardic »race« different from the one of the Ashkenazy, as I will explain later. The same moment witnessed the invention of the *Reconquista* that originated as one of the pivotal myths of Spanish history. The war to »retake« Spain from the Arabs is framed as the country's national destiny. It explains the idealization of the Royal Alliance between the Crown and the Jews to finance the *Reconquista* and expel the Moors.⁴⁶

In the 1850s we find references to the Jews in official and political documents. Some resulted from letters received by Spanish institutions from Jewish communities abroad. In 1854 the Spanish Parliament started drafting a new Constitution that was never promulgated. News of this constitutional project provoked the reaction of Jewish communities who sent letters to the Spanish Parliament asking for freedom of religion and the derogation of the 1492 *Edicto de expulsión*. These letters, seven in total, are kept in the archives of the *Congreso de los Diputados* in Madrid and have been recently studied by Mónica Manrique Escudero.⁴⁷

The military campaign in Moroccan Africa in 1859 and 1860 influenced the Spanish approach to Jews and also Muslims. When in 1859 troops entered Tétouan in one of the first stages of Spanish modern colonialism they discovered Jewish families speaking Spanish; according to the press the Sephardim in these Moroccan towns welcomed the troops in Spanish.⁴⁸ This episode made the existence of Jews descending from those who lived in the Peninsula and speaking Spanish visible to the Spanish public. This African cam-

paign is at the origin of an intense relation between Jewish communities in northern Morocco and the Spanish authorities during the rest of 19th century.

1868–1876: *Filosefardismo* and *convivencia* and the constitutional re-definition of Spain

Without any doubt, the rewriting of medieval Spain as a land of religious tolerance and the construction of the image of Sephardic Jews in liberal discourse started in the democratic period between 1868 and 1874. The revolution of 1868 made way for the legislative reforms of the *Cortes Constituyentes* and approval of the Constitution of 1869. The crisis of 1872 caused the transition to the first Republic, which was ended in 1874 by the Army and the Monarchists, who restored the Bourbon dynasty to the Spanish throne.

Catholicism and religious intolerance were the rule in constitutional Spain from 1812 until the democratic revolution of 1868. This is probably why the discussion of religious freedom was central in parliamentary debates, especially during the discussion of the article of the 1869 Constitution regulating religious freedom.

The debates between opponents and defenders of religious freedom occupy more pages than any other question in the *Diario de Sesiones* of the *Cortes constituyentes*. Parliament dedicated numerous sessions to the discussion of the articles of the Constitution regarding religion but also to the petitions from Spanish citizens and communities for or against religious freedom. Religion was important in the political and social debates and religion introduced the ideas of living-together and *filosefardismo* into the debate. Both supporters and opponents of religious freedom made specific reference to medieval coexistence and specially to Jews in medieval Iberia, especially during the debate between members of the parliament over the new Constitution of 1869.⁴⁹ To use the expression of one of them, the Catholic conservative Vicente Manterola, in the parliamentary debates

45 ALVAREZ CHILLIDA (2002) 188 ff.

46 About the »Alianza real«, see BENBASSA/RODRIGUE (2004) 32 ff.

47 MANRIQUE ESCUDERO (2016) 41 ff.

48 GONZÁLEZ (1991) 68.

49 The first reference to the Jews during the constitutional debate was made

by the Minister of Justice. He announced on 1 April 1869 that he would present to the Parliament the »petitions of Jews from London, Lisbon, Amsterdam, Bordeaux and other places in Europe, of descendants of Spanish families who want to come

back to Spain, where the remains of their ancestors are buried«. See *Diario de Sesiones* 30, 07/04/1869, 782.

there was always a »part of the debate concerning the Jews«. ⁵⁰

One member of the Parliament played a capital role in this process and introduced the »Jewish question« into the debate: Emilio Castelar, an historian and Professor at the University of Madrid, who had been sent into exile for his ideas. He was liberal, republican, »philosephardic« and was elected Member of the Parliament in 1869. He was considered a great speaker, even admired by his opponents. His prestige was so high that his speeches' references to the Jews and to religious tolerance in the Middle Ages came to shape the way that both his supporters' and also his opponents' introduced references to the same topics in their discourse. Because of him, the religious question and the reference to Sephardic Jews and religious tolerance in the Middle Ages always came together in Spanish political discourse. ⁵¹

In his speeches before the Spanish Parliament in 1869, Emilio Castelar introduced the basic ideas which would be reproduced by the authors of *filosefardismo* a few decades later. He presented an idealized vision of religious tolerance in medieval Spain. He introduced references to Jewish excellence in science and economics.

For Castelar the Middle Ages was an era of tolerance. The Castilian Kings, after re-conquering the territories of Al-Andalus, recognized the »rights« of Muslims and Jews. The »Spanish« legislation, that is Castilian and Aragonese, respected the privileges of both communities and it was only in the 14th century – according to Castelar – when religious intolerance started. ⁵²

»Remember the Middle Ages« – says Castelar – »when the principle of religious tolerance dominated imperfectly but dominated our soil!« ⁵³ Castelar uses a recurrent image in the reinvention of medieval tolerance: the city of Toledo, as example of *convivencia*, »where next to the Gothic cathedral« stood the synagogue and the mosque. ⁵⁴ The intolerance, according to Castelar, started in the 14th century and was caused by the Church, responsible for the loss of intellectual and industrial capital caused by the expulsion. Castelar men-

tioned explicitly two famous Sephardic Jews »lost by the Glory of Spain«: Spinoza and Disraeli. According to this idea, if the Jews and the Moriscos had not been expelled, the Spanish Nation would have had the benefit of their genius. In his words:

We do not have agriculture because we expelled the *Moriscos*, those who built the three paradises of our country: the *huertas* (gardens) in Murcia, in Granada and in Valencia. We have no industry because we expelled the Jews who taught Alfonso X to read, who dictated with him and the Arabs the *Tablas alfonsinas*, the greatest monument of the Middle Ages. ⁵⁵

The economic and technological *retraso* (backwardness) of Spain because of the expulsion of Jews and *Moriscos* is another recurrent aspect of this idea. Castelar, who ended one of his speeches with the sentence »Great is God in the Sinai«, ⁵⁶ introduced the fundamental ideas of *filosefardismo*. He managed to put the »Jewish question« at the centre of all discourse. Tolerance of the Jews meant religious tolerance.

Other politicians followed Castelar's example and referred to history in their speeches. The member of the Parliament García Ruiz contrasted the tolerant legal system of medieval Spain with the intolerance under Torquemada's Inquisition ⁵⁷ and argued for allowing Jewish immigration to Spain. ⁵⁸ Valera, another important member of the Parliament, identified the union of Castile and Aragon and the end of the *Reconquista* as the original moment of Spanish intolerance and, in his opinion, »religious persecution has existed among us ever since«. ⁵⁹

The reactions of conservative Catholics to his discourse also reflect the basic ideas of traditional anti-Semitism in 19th and 20th-century Spain. Vicente Manterola, a priest from the Basque Country, was charged with answering Castelar on the question of religious freedom. For the priest the Jews were partly responsible for their expulsion and for the pogroms; it was their »fanaticism« that had provoked the Christians to kill them. The

50 Diario de Sesiones 12/04/1869, 980.

51 See ALVAREZ CHILLIDA (2002) 131 ff.

52 Diario de Sesiones 47, 12/04/1869, 989.

53 Diario de Sesiones 47, 12/04/1869, 900.

54 *Ibid.*

55 *Ibid.*

56 Diario de Sesiones 47, 12/04/1869, 991.

57 Diario de Sesiones 59, 26/04/1869, 1363.

58 Diario de Sesiones 59, 26/04/1869, 1365.

59 Diario de Sesiones 62, 29/04/1869, 1476.

cause of the pogroms was the fatal combination of Jewish conduct, specially their »sectarian behaviour«, and Spanish character.⁶⁰

The debate over this article in the *Cortes Constituyentes* was agitated and ended in a relative victory for Castelar and his liberal and republican colleagues. The 1869 Constitution stated in Article 21: »The public exercise of other [non-Catholic] religions by foreigners residing in Spain is guaranteed. If some Spaniards profess a different religion, the previous paragraph is applicable to them.« It was a way of declaring religious tolerance by presuming that Spaniards were, in principle, Catholic. As stated by Ojeda Mata, »this implied that the perception of Spain as a religiously homogeneous country was still at work and that religious diversity was associated with foreigners.«⁶¹

This famous debate shows that by 1869 a particular trend had begun amongst the Spanish political elites. Liberals and republicans drew parallels between liberalism and medieval Spain and between intolerant conservatives and the Catholic Monarchs and the Inquisition. From Castelar on, freedom of religion and the reconstruction of medieval coexistence went together hand in hand. Defending tolerance and freedom and a tolerant Spanish Nation meant referring to an idealized living together of the three religions in medieval Spain and also praising the Spanish Jews as part of their political project against conservative Catholics, who were compared to the officers of the Inquisition. This romantic approach to the Middle Ages influenced political discourse and the historiographical reconstruction of the Spanish past.

In 1873, the First Republic was declared, and a constitutional project entered discussion in the National Assembly. No references to Jews or *convivencia* are to be found in the *Diario de sesiones*. The constitutional project recognized absolute freedom of religion and banned public finance of any religion.

The coup d'état of general Pavía in 1874 put a quick end to the »Sexenio liberal«: nearly six years of revolutionary liberal-progressive rule. It marked the beginning of an authoritarian, Catholic regime with a democratic façade that is known as the

Restauración. The regime was shaped by Antonio Cánovas del Castillo, one of the authors of the Spanish Constitution of 1876.⁶² This regime repressed the republican and left wing movements which had given birth to the 1868 Revolution and the First Republic. This meant exile for many radical republicans, federalists and other progressive movements, who took their philo-Semitism and sharp critiques against the Catholic Church with them. And, naturally, the references to medieval coexistence of the three religions changed.

During the discussion of the Constitution of 1876, references were still made to the living together of the three religions during the Middle Ages, which is proof of the relevance of the ideas expressed by Castelar in the previous years.

The debate was then between religious tolerance and religious unity. The government's proposal was that the Catholic religion was to be the State religion but other religions were tolerated, as long as they were not publicly manifested. Supporters of religious unity and also supporters of religious freedom confronted their ideas and their reconstructions of the past.

The members of the Parliament who supported the official position rejected that the Inquisition or the »tyrannical« expulsion of Jews and *Moriscos* were signs of intolerance.⁶³ According to these politicians, in the Middle Ages there was a State Religion alongside tolerance towards Muslims and Jews, exactly the way Article 11 of the Constitution projected. Interestingly, in 1869 the liberals were defining a national project involving the reinvention of *convivencia*, tolerance and freedom in the Middle Ages. In 1876 the conservatives were also projecting their vision of the Nation by inventing the medieval origins of linguistic, territorial and religious unity to generate the idea of *Hispanidad*.

Castelar also intervened in the discussions, but of course his was no longer the dominant position, as it had been in 1869, but rather was a minority view. Again he made reference to history, blaming religious unity for the disappearance of »the Jews who took the products of our trade and the ideas of our mind to Provence, Italy and Greece.«⁶⁴ He also drew, as he had in 1869, parallels between past

60 *Diario de Sesiones* 62, 29/04/1869, 979.

61 OJEDA MATA (2006) 60.

62 About the *Restauración* see JACOBSON / MORENO LUZÓN (2000).

63 These were the words of Francisco de Paula Candau, member of the Constitutional commission. *Diario de Sesiones* 53, 05/05/1876, 1161.

64 *Diario de Sesiones* 56, 09/05/1876, 1257.

religious intolerance and political intolerance in 19th century.⁶⁵

During the debate, however, the supporters of religious unity were adamant: only one legal religion. The conservative and monarchist Duke of Almenara Alta gave a long speech explaining the history of Spanish religious unity to support his position, a ban of all other religions. In it, he referred to Spain as »this soil of good customs, noble *fueros* and the holy freedoms of the Middle Ages« in comparison with the »Caesarism« or dictatorship of the Kings of the Renaissance who oppressed the *Comuneros*; the Castilians who fought against Charles I to defend the »liberties« allegedly contained in medieval Laws.⁶⁶

The Catholic faith appears now and again as the defining feature of »Spanishness«: »Only one God, only one Religion, only one cult is the motto of our race.«⁶⁷ The *Reconquista* appears as a victory of the Catholic faith against the Muslims and religious unity as the basis for stability and independence. »The tendency of our race – says the Duque of Almenara Alta – has been the extermination of the sects in the times of the Goths or the expulsion of Jews and *Moriscos* in later times.«⁶⁸ The Duke of Almenara was, of course, against religious tolerance, even in the way formulated in Article 11.

The Count of Llobregat, another monarchist Member of the Parliament, supported religious unity for »historical« reasons. For him, »religious ideas« had given shape to Spain and inspired the conversion of the Goths, the war against the Muslims, the conquest of America and the expulsion of the Jews and the *Moriscos*.⁶⁹ He admitted that not all these episodes were positive but without the Inquisition or the expulsion Spain could have suffered the religious conflicts experienced in France.⁷⁰ Again we find here the use of the Catholic religion to define the Spanish Nation, its origin and its imperial destiny.

The political landscape had changed. Now the supporters of religious freedom were on the defensive. The conservative monarchists supporting a State religion and religious tolerance were in power. References to the Middle Ages were pre-

sent. There were also, however, references to the conquest of America and to religious unity as essential to the Spanish Nation. Interestingly, 1492 was considered less as the year of the expulsion of the Jews than as the beginning of the Spanish Empire. This was the start of the idea of *Hispanidad* based on religious, linguistic and territorial unity.

After the long debate, the members of the parliament voted for religious tolerance. Article 11 of the Constitution states: »The Catholic, Apostolic, Roman religion is the one of the State. The nation obliges itself to finance the cult and its ministries. Nobody shall be disturbed for his religious opinion or for the exercise of its cult, with the exception of due respect to Christian morals. Public ceremonies and manifestations of religions other than that of the State, however, will not be allowed.«

1898–1923. The *Restauración* and End of the Empire between *convivencia* and *Hispanidad*

As explained before, the Constitution of 1876 initiated the regime of the Bourbon Restoration, a long period politically dominated by two big parties and based on corruption and repression against political and cultural minorities. It was also the period where Spanish national identities were shaped. During the period between 1874 and 1923 the intellectual debates about nation, race, religion, and, of course, also history were especially important. References to the Middle Ages, to *convivencia* and to the end of it and the beginning of the Spanish empire in 1492 were often present.

Different factors determined the development, content and function of the discourses about Spanish identity. The end of the Empire in 1898 was a very important one. Spanish intellectuals had to rethink the nation after the defeat. One reaction was the defence of another different empire in Africa and, specially, in Northern Morocco.

The idea of *Convivencia* helped in legitimizing the presence of Spain in Northern Africa. One of the arguments of the pro-colonial lobby was pre-

65 Diario de Sesiones 56, 09/05/1876, 1268.

66 Diario de Sesiones 48, 28/04/1876, 971.

67 Diario de Sesiones 48, 28/04/1876, 973.

68 Diario de Sesiones 48, 28/04/1876, 992.

69 Diario de Sesiones 50, 01/05/1876, 1056.

70 *Ibid.*

senting Spain as the country best prepared to occupy Islamic countries for historical reasons: because Spain had much past experience in managing different cultures and religions.

Let us see an example. In March 1884 the Spanish Society of Africanists and Colonialists organized a series of famous conferences in the »La Alhambra« Theater in Madrid with the title *Los intereses españoles en Marruecos*.⁷¹ The speakers were representatives of the intellectual elite of the time: Joaquín Costa, Gumersindo de Azcárate, Francisco Coello, Gabriel Rodríguez and Eduardo Saavedra. The purpose of this conference was to finance explorations of the Sahara and northern Morocco. These Spanish Africanists or »Moroccanists« underscored the historic links between Spain and Morocco.

The famous intellectual Joaquín Costa made the most important speech for the intervention of Spain in Morocco for geographical, racial and historical reasons. He did not mention the Jews in medieval Iberia but used the history of the *Reconquista* to legitimize the protectorate in Morocco. The *Reconquista* was, according to Costa, a civil war with Muslims and Christians on both sides.⁷² It was not a religious war but a political conflict.⁷³ The friendship between Moroccans and Spaniards had a long history starting with the »nine centuries of living together [*convivencia* in the original] in the same territory under the same sky«. ⁷⁴ This is why Morocco had to be the »disciple« of Spain and not of any other nation: »during the Middle Ages Morocco was the mediator by which the Eastern civilization came to Spain. In the modern times Spain has to be the mediator through which European civilization penetrates into Morocco.«⁷⁵ This is one of the first times the term *convivencia* is used with the historical meaning we are studying here.

These were the circumstances favouring also the phenomenon of *filosefardismo*: an intellectual construction favourable to the Sephardim that was built by Spanish elites on clichés together with a strong racist component, at the end of 19th cen-

tury. This discourse praised the Sephardic Jews, condemned the expulsion and promoted a political approach by the Spanish authorities to the Sephardic communities living abroad, especially in Morocco and the Ottoman Empire. This »Philo-Sephardism« was based on a romantic reconstruction of the medieval coexistence in Spain where the three cultures – Islamic, Jewish and Christian – lived together.

Philosephardic discourses coexisted with other flexible nationalistic discourses based on race, religion or the history of the Spanish empire. This explains the references to race in discourses reconstructing medieval *convivencia*.

The Senator and writer Angel Pulido, perhaps the most important *filosefardita* of the Restoration period, published a book with the telling title *Españoles sin patria y la raza sefardí*.⁷⁶ The expression *Españoles sin patria* was and remains to this day very prominent in the discourse of the elites. The expression *raza sefardí* was also a leitmotif that ran through the work. In *Españoles sin patria*, Angel Pulido praised the »Sephardic race« and, at the same time, he mentioned its superiority in regard to the Ashkenazy Jews. According to authors such as Mark R. Cohen, this idea of superiority was based on the idea of »interfaith utopia«: the Sephardim were supposedly superior to the Ashkenazim because they developed their arts and intellectual production in the atmosphere of freedom and tolerance of Medieval Spain.⁷⁷

Maite Ojeda has studied the ambivalence of the term »Sefardí« in 19th-century Spain.⁷⁸ According to her, »Sephardim« appears in the discourse as a mixture between Jew and Spanish. This »notion of a mixed identity needs to be examined in terms of the specific historical, socio-political and ideological context as well as the hegemonic system of social classification«;⁷⁹ that of the Spanish elites, of course.

This philo-Sephardism and the idea of *convivencia* lived together with the development of the myths of *Hispanidad*. According to Christopher

71 COSTA (1884).

72 COSTA (1884) 10–11.

73 *Ibid.*

74 COSTA (1884) 14.

75 COSTA (1884) 29.

76 PULIDO FERNÁNDEZ (1905).

77 COHEN (1994) 4. This idea of the freedom enjoyed by Jews under me-

dieval *Convivencia* needs special attention. Angel Pulido and José Amador de los Ríos, whose 1848 book was mentioned a few pages earlier, emphasised the fact that the territories of Spain, that is the Crowns of Castile and Aragon, were the ones in Europe where the Jews enjoyed the most

freedom and where they occupied the highest posts in the royal administration. AMADOR DE LOS RÍOS (1984) 40; PULIDO FERNÁNDEZ (1905) 21.

78 OJEDA-MATA (2015).

79 OJEDA-MATA (2015) 2.

Schmidt Nowara, »Spaniards sought to construct a national identity that folded the colonies into the metropolitan historical narrative«. ⁸⁰ It is also in this period when the Spanish Parliament officially created the »fiesta nacional, con la denominación de Fiesta de la Raza« 12 October. ⁸¹ The myth of *convivencia* had to compete with these other myths in the heterogeneous field of Spanish nationalist discourses. And ethnic nationalism competed with civic nationalism. We also have to take into account influences from foreign nationalisms, mostly the French. As stated by Stephen Jacobson, »Spain was a country where its literate classes absorbed waves of continental and Atlantic influences and modified them in interesting ways depending on historical circumstances«. ⁸²

Was the Spanish hegemonic nationalism ethnic? Was it based on history or in religion? In my opinion, we should not look for regularity or coherence in the Spanish discourses of that period. The flexibility of the Spanish thinking of the *Ateneos* and *Academias* but also the shock of 1898 and the urgency of rebuilding the empire in Africa determined a flexible discourse. As stated by Joshua Goode, the flexibility of Spanish discourses about the empires »allowed these scientific discussions to prefigure later neo-nationalist discussions in Spain and in the former colonies«. ⁸³ This explains how references to race, to *convivencia* or to Catholicism could coexist in the same discourses.

The myth of *convivencia* played an important function in political discourses during the period between 1876 and 1931, between the end of the Spanish empire in the Caribbean and the Philippines and the colonial enterprises in Africa. However, the nationalistic discourses focused more on *Hispanidad* and the Spanish Empire (1492–1898) than on the Middle Ages. Religion played a very important role in the definition of Spanishness.

The specificity of Spanish discourses about nation is, besides the mentioned flexibility, the centrality of Catholic religion which, at the end, defined Spanish identity in political discourses. The intellectual, politician and architect of the *Restauración*, Antonio Cánovas del Castillo, in a famous conference at the Ateneo in 1882, after

presenting and criticizing the different theories *en vogue* about the nation – the racist one and the democratic one – concluded that »no, señores, no; nations are the production of God or, if any or many of you prefer it other way, of nature«. ⁸⁴ This central role of Catholic religion and the flexibility of nationalistic discourses allowed the coexistence of discourses making references to *convivencia* with others praising the national and religious unity achieved in 1492.

1924–1964: Filosefardismo and *convivencia* in the Law: the Decree of 1924

During the *Restauración*, *filosefardismo* influenced the campaigns for the nationalization of Sephardim Jews. This was not a new phenomenon: there had been nationalizations of Moroccan Jews since the 1860s. In many cases individual or family nationalizations, performed under the right of Spanish Government to grant Spanish citizenship »por carta de naturaleza« (Article 21 of the Civil Code of 1889). In other cases we find naturalizations of groups or the Decree of Primo de Rivera that we will analyze here.

From 1865 on, we find cases of nationalization of Moroccan Jewish families as well. As already hinted at, political and economic interests were behind these nationalizations. Maite Ojeda has explained how these naturalizations targeted specific Sephardic families with social or political significance in the northern part of Morocco. It was an instrument of Spanish foreign policy to penetrate that part of the Maghreb. ⁸⁵ These Sephardic Jews, who still spoke Spanish, were in favour of Spanish presence in that area, which was much more tolerant to the Jews than were the Muslim authorities. The Spanish government used this naturalization policy as a political instrument. The official Gazette offers a very useful instrument to look up the names of Sephardic Jews nationalized by the Spanish government.

This philosephardic discourse acquires a special dimension after the end of World War I. The Peace Treaties redesigned the map of Europe.

80 SCHMIDT NOWARA (2008) 55.

81 Ley declarando fiesta nacional, con la denominación de Fiesta de la Raza, el día 12 de Octubre de cada año. Gaceta de Madrid 167, 16/06/1918, 688.

82 JACOBSON (2006) 212–213.

83 GOODE (2016) 64.

84 CÁNOVAS DEL CASTILLO (2013) 105.

85 OJEDA (2014).

New nation-states were created from the ruins of the Ottoman and the Austro-Hungarian Empire. These states sought to build homogeneous societies by expelling those considered »non-nationals«. As Giorgio Agamben explains, how the difference between the concepts »man« and »citizen«, which lacked significance in the French Revolution, became transcendent after the First World War.⁸⁶ At that moment in the development of bio-politics, only those who were citizens of one State could have rights protected by it. Those who did not belong to the national community according to the law were denationalized and were deprived of their citizenship rights. The states seeking to build homogenous national communities deported the non-nationals.

As a consequence, massive deportations took place in the years that followed. Turks were deported from Greece, Greeks from Turkey, Turks from Bulgaria, and so on. Hundreds of thousands of people were deported in dramatic episodes still remembered and researched. For most of those deported, there was a nation-state where they could seek refuge. Not for Jews, Armenians and others. The Jews were, in many cases, the weakest minority in the Austro-Hungarian and Ottoman Empires. Among the Jews affected, the Sephardim comprised an important sector.⁸⁷

Due to this situation and influenced by *filosefardismo*, the Spanish State developed a philosephardic policy, signing agreements with Greece to protect the Greek Sephardim. Lists of Jews to be protected and nationalized were put together. This atmosphere and the corresponding philosephardic moment in Spanish politics also explain why Sephardic Jews were nationalized during the monarchist dictatorship of Primo de Rivera and Alfonso XIII in 1924 with the decree granting Spanish citizenship to certain Sephardic Jews that we commented in the introduction. The decree, as well as its preamble, is worth reading. The words »Jew«, »Jewish« or even »Sephardic« do not appear. The text makes reference to previously »*protegidos españoles*« (protected Spaniards) or their descendants and to individuals in general who belonged to

families of Spanish origin and wished to be Spanish. The legislature was generous here, considering these individuals as originally Spanish »for ethnic or historical grounds of long *convivencia*«. Nationalization, then, was not a concession but explicit recognition (*reconocimiento*) of an existing reality: the one of thousands of Sephardic Jews who were Spaniards because of »long *convivencia*«. This norm translates the main ideas of *filosefardismo* without mentioning the Sephardic Jews – or better said, the Sephardic Spaniards – whom this rule was supposed to benefit. The Sephardim were now Spaniards and not belonging to the Sephardic race.

It needs to be mentioned that, in 1927, an Order promulgated to develop the Royal decree and to clarify the documents required for the naturalization asked the applicants to present »the facts proving they are Spanish protectees and the ethnic reasons justifying the national origin«. This reference to the »ethnic reasons« introduced a reference to their »sephardicness«.⁸⁸

The »long *convivencia*« had practical consequences for the Jews who wanted to obtain the Spanish citizenship. Lawmakers made an exception to the general rule that the Spanish nationality could only be bestowed in Madrid. In this case, it was sufficient to appear before Spanish authorities in Eastern European countries. A possible explanation could be that the regime wanted to avoid Jewish immigration to Spain, or would that be exaggerated? Actually, official documents discovered by Antonio Marquina and Gloria Ospina⁸⁹ show that, a few weeks after the publication of this decree, Madrid sent instructions to its representatives in Eastern Europe to prevent immigration of Jews to Spain. The *problema judío* had never escaped them.

Thanks to this decree, between 3,000 and 4,000 Jews obtained Spanish citizenship before it expired in 1930. Naturalizations did continue, however, under the Second Republic. It is worth noting that the Spanish Republic renewed the policy of nationalization of Jews but, if we read the Spanish Gazette, we see by the names that most of the Jews obtaining Spanish nationality were Ashkenazy or

86 AGAMBEN (1998) 167 ff.

87 TODOROVA (1997) 175 ff.

88 Real orden disponiendo que los individuos de origen nacional que vienen siendo protegidos como si fueran españoles por los Representantes de

España en el extranjero, pueden promover el oportuno expediente para que se les conceda la nacionalidad española, presentando los documentos que se determinan, Gaceta de Madrid 146, 26/05/1927, 1250.

89 MARQUINA/OSPINA (1987).

German. In 1936 an initiative by the government to nationalize a group of hundreds of Greek Jews was halted because of the outbreak of the Civil War.⁹⁰

This was, to my knowledge, the first time Spanish law used the concept of *convivencia* as referred to the living together of Jews, Muslims and Christians in the Middle Ages. After the first discourses of Castelar about living-together and Jews in Spain, after the elaborations of Pulido, de los Ríos or Costa, the Spanish State assumed *convivencia* as part of its past and as an episode with legal consequences in the 20th century.

1931–1964: Spanish *convivencia* and *filosefardismo* under the Second Republic and Francoism

In 1931, during the first weeks of the Spanish Republic, President Alcalá Zamora visited the Spanish city of Tétouan in Morocco. He paid a visit to the synagogue, which he entered holding hands with the representative of the Jewish community and the Khalifa. The episode is very representative of the presence of *filosefardismo* in the discourse of tolerance and its continuity and reinforcement during the Second Republic.

Jews from all around the world welcomed the proclamation of the Spanish Second Republic on 14 April 1931. During the period between 1931 and 1936, the Spanish government implemented pro-Jewish and pro-Zionist policies, which may be one of the explanations for the high number of Jews participating in the International Brigades during the Civil War. At the same time, the 1930s were years of rampant anti-Semitism in Europe as well as in Spain.⁹¹

This influenced the evolution of philo-Semitic and philosephardic discourse and their role in the Spanish nation-building process during not only the short-lived Republic but also during the four decades of Franco's dictatorship that started, according to the Francoist propaganda, with a »Na-

tional Crusade« in 1936 to stop a »Jewish-Freemason conspiracy« to destroy Spain.

Republican intellectuals and diplomats like Américo Castro and Salvador de Madariaga were in contact with Jewish communities and intellectuals. As early as 1931 they tried to persuade their contacts of the new Republic's philo-Semitism and its will to derogate the 1492 decree.⁹² Salvador de Madariaga, however, was aware of the anti-Semitism of the right wing anti-Republican parties and how it would be fuelled if the Spanish government facilitated Jewish immigration to Spain.⁹³

Américo Castro, historian and diplomat, along with the politician Alejandro Lerroux, were among the philo-Semitic Republicans who were receptive to the demands of Jewish communities abroad. Both were in favour of Jewish immigration and considered even the return of the Tránsito Synagogue to the Jewish communities and the revision of the history of Spain.⁹⁴ The liberal ideals of 1869, 1873 and the Restoration could now become reality.

Again, this philo-Semitism fuelled the anti-Semitism of the anti-Republican parties. Anti-Semitism did not start in Spain in 1931. It had a long history. During the Second Republic, however, right-wing Spanish movements, Catholic monarchists, the Confederation of Autonomous Right-wing Groups (CEDA), the *Carlistas* and the Falange resorted to the familiar formula of Jewish-Freemason or Jewish-Russian conspiracy. After 1933, this anti-Jewish discourse was promoted by the German Embassy in Madrid, where anti-Jewish propaganda was made up for publication in right-wing papers. This is also the moment when some radical groups began to identify Jewish with Catalan.

The Spanish far-right, as well as the Falange and Francoism after 1936, intensified rhetoric about the Spanish Empire; the »national destiny« of Spain according to the official Francoist doctrine. The discourse of *Hispanidad* or the Spanish *raza* was central on the side of the nationalists who conspired against the Republic, who organized the

90 Decreto autorizando al Ministro de este Departamento para que presente a los Cortes un proyecto de ley aprobando el Acuerdo concertado entre España y Grecia mediante canje de Notas de fecha 7 de Abril del corriente año, reconociendo la naciona-

lidad española a las 144 familias residentes en territorio heleno que figuran en las listas anejas al texto de las Notas mencionadas, Gaceta de Madrid 175, 23/06/1936, 2580–2581.

91 GONZÁLEZ (2004).

92 GONZÁLEZ (2004) 111.

93 *Ibid.*

94 GONZÁLEZ (2004) 100.

coup d'état in 1936, who won the civil war and who built a state and a national discourse on old concepts. This national discourse developed during and after the Civil War, emphasized the importance of imperial national destiny and the concept of spiritual, national and social unity. These values, destiny and unity, were given legal stature under the doctrine of the *Caudillaje*;⁹⁵ the laws legitimizing the power of the *Caudillo* – in the figure of *Generalísimo* Franco – and the *Fuero de los Españoles* in 1945.⁹⁶

Franco's role during the Holocaust will not be taken up here, as it has been studied by numerous authors.⁹⁷ Worth mention, however, is that Francoist anti-Semitism led to the de-nationalization of thousands of Jews who held Spanish citizenship. In 1943, the Spanish government ordered its diplomats not to provide assistance to these Spaniards because, even if they were formally Spanish citizens, according to Foreign Policy Director José María Doussinague, starting on 18 January 1943 these Spanish Jews could not be »likened [*equiparados*] to Spaniards from Spain, who had Spanish parents and lived in the atmosphere [*ambient*] and spirit of Spain«.⁹⁸

In 1944 this policy of Franco changed due to the general development of World War II and the pressures of the allies. After 1939 the philosephardic liberals went into exile. After 1945 Spain was isolated by the international community for a few years. After 1948 a new actor appeared: Israel. Spain did not establish relations with the new State and privileged the friendship with Arab states.

This is why the Francoist policy towards Sephardim and the Jewish world in general was ambivalent. As Anna Lena Menny has demonstrated, Franco oscillated between right-wing *filosefardismo* and National-Catholicism.⁹⁹ This is the cause of the official silence on Jewish history and Jewish present of the Spanish administration for many years.¹⁰⁰ Menny studied the political discourses

about Sephardic Jews and *convivencia*. Only in the official documents of the 1950s did they start mentioning the need of approaching the Sephardim.¹⁰¹ She also mentions the presence of anti-Semitic discourses in Franco Spain: we should consider the importance of these discourses in the legitimation of the 1936 coup d'état and the civil War and the difficulties of erasing them.

The memory of *convivencia* under Franco was influenced by this context and by the ideology of the regime. The Catholic Monarchs were glorified as the builders of Spanish unity and the discovery of America in history books,¹⁰² a myth that has been recently deconstructed by historians and also by the Tribunal Supremo of Spain.¹⁰³ In 1949, the Oficina de Información Diplomática published a book with the title *España y los judíos* to convince the international community of the activities of the regime to save Jews during World War II and reconstructing the old Sephardim-Spanish friendship based on »blood and cultural tights«.¹⁰⁴ This short book was the first product of the Franco regime sponsored myth of the saviours, developed later by historians in books, exhibitions and also in the Law of 2015, to which I will later comment. Without a doubt, the publication of this book has to do with Franco's attempt to build alliances with the Allies after 1945. This would also explain why, in 1948, a Decreto-Ley finally ended a procedure started in 1935 by the Republican Government to recognize the Spanish citizenship of a group of Sephardic Jews »antiguos protegidos de España« from Greece and Egypt.¹⁰⁵

Anna Lena Menny reminds us of the importance of the Bibliographical Sephardic exhibition in 1959 and the opening of the Sephardic museum in 1964 as episodes of the recovering of the ideas of *filosefardismo* and *convivencia* linked to the *Hispanidad* under the Franco dictatorship.¹⁰⁶ The organization of the exhibition was full of political and diplomatic interferences because of the political

95 CONDE (1942).

96 ARAGONESES (2008).

97 See: AVNI (1982); MARQUINA/OSPINA (1987); BAER (2011); MARIMON (2014); ROZENBERG (2010); ARAGONESES (2011); ARAGONESES (2018).

98 ARAGONESES (2015) 131.

99 MENNY (2013) 81.

100 MENNY (2013) 84.

101 MENNY (2013) 90 ff.

102 MENNY (2013) 248 ff.

103 »No: los reyes católicos no fundaron España«, Público, 11/12/2017.

104 OID (1949) 9. Quoted by MENNY (2013) 278.

105 Decreto-ley de 29 de diciembre de 1948 por el que se reconoce la condición de súbditos españoles en el extranjero a determinados sefardíes antiguos protegidos de España, BOE 9, 09/01/1949, 118.

106 MENNY (2013) 303 ff.

meaning of Sepharad and the Sephardic presence in Spain and also because of the fear of provoking the Arab countries.¹⁰⁷ The *filosefardismo* here was linked with the idea of *Hispanidad*.

The Decree of 1964 creating the Sephardic Museum in Toledo is another example of this *filosefardismo* linked to the *Hispanidad*.¹⁰⁸ In the preamble, the legislator reminds the importance of Jewish culture in Spain and the assimilation by »some of the [Jewish] lineages of the Spanish genius and mind through a long *convivencia*«. ¹⁰⁹

The Francoist official memory was not the only Spanish memory during these years. There was the one of the exile. Américo Castro's book *España en su historia*, published for the first time in Buenos Aires in 1948, is a good example of it.¹¹⁰ This important book continued in the republican exile the tradition of liberal and republican *filosefardismo* linking it with the memory of the Civil War. The polemic after its publication was also a political one. The different visions of Spain's identity and not only historiographical theses were in conflict.

Also inside Spain the memory of *convivencia* was alive amongst different communities resisting the dictatorship. Some authors of the democratic resistance revisited *convivencia*. One example is Salvador Espriu and his book *Pell de brau*, where he addresses a tolerant, open Spain with the name Sepharad and asks it to respect the linguistic plurality of Spain:

Make the bridges of dialogue strong,
And try to understand and love
The reasons and languages of your children.¹¹¹

The Law 12/2015: between *convivencia* and »cosmopolitan memory«¹¹²

»¡Cuánto os hemos echado de menos!« (»We have missed you so much!«) These were the words of King Philippe VI, Head of State of Spain, in the official reception organized on the 30th November 2015 to present and celebrate a Law, the *Ley 12/2015* of 24 June granting Spanish Citizenship to Sephardim of Spanish descent.¹¹³ The Law, presented at the beginning of this text, had been passed by the Parliament in June that same year and on the 24 June the official Spanish Gazette published it,¹¹⁴ as is the norm in the Spanish legal system. The exception in this case was the holding of an official gathering to present and celebrate ostentatiously the Law with much fanfare before representatives of Jewish communities and the Ambassador of Israel.

The bill became law before 30 November and Jewish representatives in Spain and abroad had already welcomed it. The law, as explained in the first page of this text, was said to have opened a gate to the so-called »right of return« for descendants of the Jews who were expelled by the »Catholic Monarchs« – Queen Isabella I of Castile and King Ferdinand II of Aragon – in 1492 and could now come back to the Kingdom of Spain. The law was also welcomed by thousands of Jews across the globe. This reaction is evidenced by the many articles, blogs and news reports on the subject that appeared on the Internet and conveys the symbolic and political dimension of the law. Legislators anticipated this response when they presented the bill to the national and international public in 2014. The Spanish Government administration responsible for this bill emphasized that the law would represent the culmination of a process of reunion (*reencuentro*) and repay the »historical debt« Spain owed this community and was aimed at creating »a new space of living together [*convivencia*] and concord.«¹¹⁵

107 MENNY (2013) 317.

108 Decreto 874/1964, de 18 de marzo, por el que se crea el »Museo Sefardí« de Toledo, BOE 88 11/04/1964, 4560–4560.

109 *Ibid.*

110 CASTRO (1948).

111 ESPRIU (1960).

112 The expression is from SZNAIDER/LEVY (2012).

113 »El rey a los judíos sefardíes: ¡Cuánto os hemos echado de menos!« La Vanguardia, 30/11/2015.

114 Ley 12/2015, de 24 de junio, en materia de concesión de la nacionalidad española a los sefardíes originarios de España. BOE 51, 25/06/2015, 52557–52664.

115 »Los judíos sefarditas tendrán la nacionalidad española con solo acredi-

tar su condición.« La Vanguardia, 09/02/2014.

The bill entered into force on 1 October. Two regulations were published after this date to develop it.¹¹⁶ Already before its promulgation, however, interest in this law was great both among Jewish communities in Israel and in law firms that specialized in immigration in Spain and abroad. Lists of Sephardic family names or guidelines and recommendations were published to recruit clients interested in obtaining Spanish passports. The English translation of this Law is easily found on the Internet, mostly on the webpages of law firms, Jewish organizations and of course the Spanish Ministry of Foreign Affairs.

Lamentably, the translators of the law did not include its preamble. It is true that the preamble is not directly relevant to lawyers or Sephardic Jews seeking Spanish citizenship, but, in my opinion, it expresses important cultural and political aspects of this regulation. The Spanish legislator underlines the historical friendship between Spain and the Jews. The preamble starts with a particularly interesting historical introduction. It begins with reference to what we know as the expulsion of the Jews in 1492 and the »reencuentro« in the 19th and 20th centuries. As stated in the text, in 1492 »because of Imperatives of history the Jews took again the paths of the Diaspora«. Thanks to an amendment proposed by the Basque Nationalist Party (EAJ-PNV) the preamble included a reference to the »unfair pain« provoked by »persecution and suffering« of the descendants of those who abandoned Spain in 1492.¹¹⁷ There was no such reference in the original text presented by the government.¹¹⁸

There was reference in the original, however, to the *Expulsión*, although in this case the political responsibility for the expulsion of the Jews is shared between the Law expelling the Jews and those among them who, instead of converting, took the »drastic« path of leaving the country.¹¹⁹

According to this text, then, the Jews were not actually expelled by the Catholic Kings; rather, some general and unspecified »imperatives of history« forced them to convert while some voluntarily took the radical (»drastic«) decision to leave.

The preamble also refers to the period we are studying here, the 19th and 20th centuries. According to the text, the Spanish Bourbon Monarchy, represented here by Isabella II and Alfonso XIII, was always friendly to Jews. A »stream of opinion favourable to the Sephardim«¹²⁰ was said to have flowed since the reign of Isabella II (1833–1868) and since the end of 19th century, under the »Restauración« of Alfonso XIII, various governments had facilitated the nationalization of Sephardic Jews and the settling of Jews in Spain. There is though mention of the 1924 Decree granting Spanish citizenship to Sephardic Jews under specific circumstances. This made it possible for some Spanish diplomats to save hundreds of Jews during the Holocaust, a moment in which the »brutal sacrifice of thousands of Sephardic Jews created the eternal link between Spain and the memory of the Holocaust.«

According to the preamble, then, Spain bore no responsibility for the expulsion of Jews; the liberal Monarchies were Jewish-friendly and Spain was on the side of the saviours during the Holocaust. No reference was made to the royal decree expelling the Jews in 1492 nor to the fact that Spanish Constitutions in the 19th century both defined Spain as a Catholic country and banned other religions. Interestingly, neither are there references to the period between 1868 and 1874 when liberal and republican politicians like Emilio Castelar publicly defended the Sephardic Jews. The preamble does not mention the efforts of the Second Republic in Spain that helped thousands of Jewish refugees from Central Europe. Most important, however, is the lack of any reference to the com-

116 Instrucción de 29 de septiembre de 2015, de la Dirección General de los Registros y del Notariado, sobre la aplicación de la Ley 12/2015, de 24 de junio, en materia de concesión de la nacionalidad española a los sefardíes originarios de España, BOE 234, 30/09/2015, 88635–88652; Resolución de 10 de noviembre de 2015, de la Dirección General de los Registros y del Notariado, por la que se dictan normas sobre la gestión y el pago de la

tasa por la presentación de solicitudes en procedimientos de nacionalidad española por residencia y carta de naturaleza para sefardíes originarios de España, y por la que se aprueba el Modelo 790-Código 026 de autoliquidación de la tasa e instrucciones, BOE 271, 12/11/2015, 107086–107092.

117 Interestingly, none of the Catalan or Basque nationalist parties criticized the Spanish-nationalistic language of

the Preamble. Diario de Sesiones del Congreso de los Diputados 242, 20/11/2014, 58–73.

118 »Anteproyecto de ley en materia de concesión de la nacionalidad española a los sefardíes que justifiquen tal condición y su especial vinculación con España«, Consejo de Ministros, 07/02/2014.

119 Ley 12/2015, Preamble.

120 *Ibid.*

plicity of Francisco Franco with Adolf Hitler and Spanish cooperation in the deportation of Jews from Spain to concentration camps until at least 1944. The legislator follows in the preamble the myth of Spain as saviour of Jews.¹²¹

Neither the preamble nor the rules of this law derogate or reinterpret the 1492 decree expelling the Jews from Spain and forbidding their return. Of course this 500-year old decree is no longer valid and has been derogated *de facto* in the development of the legal system since 1492, particularly after the first Constitutions recognizing fundamental rights. Yet Jewish communities have been demanding formal derogation since 1854 and if the preamble is meant to explain the symbolic, political and cultural content of law, specifically, the absence of derogation must be taken seriously.

The preamble recounts the past from a particular perspective to connect the present day law to a memory of past friendship with the Jews interrupted by the exceptional disagreement or »*desencuentro*« of 1492. In fact, one example of evidence to prove the right to obtain the nationality is »belonging to the lists of Sephardic families protected by Spain« in the Decreto-Ley of 1948 or having obtained the Spanish citizenship via the Royal Decree of Primo de Rivera.¹²²

The preamble also creates a virtually single, homogenous identity of Sephardic Jews. If, following Fögen's analogy, the »song« in European Union Law was meant to »control minds« while perpetuating »old clichés from the old Europe« in current processes of European construction,¹²³ the »song« of this Spanish Law also perpetuates clichés about Jews in general and about the Sephardim in particular: they all apparently conserved knowledge of the Spanish language, harboured »nostalgia for Spain«, which was »without rancor« and maintained the same »the prayers, recipes, games and romance stories«.¹²⁴ The »love for Spain« beats in the hearts of these communities, where »the memory and fidelity to Spain remained«, and was recognized in 1990 when the »Prince of Asturias« Award was given to the Sephardim communities.¹²⁵

The preamble concludes that »emergent generations« have a »pragmatic and global identity«,¹²⁶ thus imposing a single identity on all the Sephardic Jews around the world who have different identities and different relationships to Spain and the Spanish language, something the legislator indirectly accepts by requesting the applicants to provide certificates of their knowledge of the Spanish language. At the same time the bill defines Spanish as Castilian; that is, as the only language capable of expressing Spanishness. The Sephardim applicants for Spanish nationality cannot exercise that accorded right if they only speak other Spanish languages such as Basque, Catalan or Galician. In a way the bill contributes to a national identity project based on only one language.

The song of this Law emphasizes beautiful and useful aspects and hides ugly ones. It refers to the Holocaust but also to stereotypes. We can identify, in fact, two different trends within the text. On the one hand, the text rescripts the role played by Spain during World War II and the Holocaust. Spain squarely appears on the side of the saviours of Jews, underlining the role played after 1944 by a few Spanish diplomats, and not among the executioners or collaborators – avoiding mention of the complicity between Franco and Hitler. In my opinion, this clearly reveals the will of the Spanish authorities to participate in the »cosmopolitan culture of the Holocaust« described by Levy and Sznajder in 2012.¹²⁷

References to the co-existence of the three cultures were not new in political and diplomatic discourses of democratic Spain. As shown by Martí Grau Segú, since the 1980s and specially during the governments of José Luis Rodríguez Zapatero, Ministers of Foreign Affairs referred often to the past of *convivencia* as a way of legitimizing Spanish foreign policy in the Mediterranean and in the Middle East.¹²⁸ In 2006, Casa Árabe and Casa Sefarad-Israel were created in Madrid. In a speech of 2007 Minister of Foreign Affairs Miguel Angel Moratinos put Córdoba as example of the »convivencia« between the three cultures.¹²⁹ His follower Trinidad Jiménez declared her will of »in-

121 ARAGONESES (2018).

122 Ley 12/2015, Preamble, 52560.

123 FÖGEN (2013) 21.

124 Ley 12/2015, Preamble.

125 *Ibid.*

126 *Ibid.*

127 SZNAIDER/LEVY (2012).

128 GRAU SEGÚ (2016).

129 MAE Moratinos, 2007. Quoted by GRAU SEGÚ (2016) 100.

corporating the memory of the Holocaust to the Spanish collective conscience». ¹³⁰

On the other hand, however, the language used in this reconstruction is surprising: »absence of rancor«, »fidelity to Spain«, »nostalgia« and »brutal sacrifice« (referring to the Holocaust). This language does not strike me as part of the post-1960 literature about the Holocaust. It is more reminiscent of the 19th and 20th-century discussions over *convivencia*, referring to the particular arrangement of peaceful coexistence, of Jews, Muslims, and Christians in medieval Spain.

It is clear that Spanish legislators wanted this legal text to symbolize a reunion between Spain and the Jewish world but they also want to use this law as a brick in the construction of a new collective identity for Spain that combines elements from a fairly distant past (*filosefardismo*) with ones from the present (i. e., the new global cultural trends regarding the Holocaust and World War II).

Conclusion: *Convivencia* and *filosefardismo* and the narratives on Spain

The language of the 2015 Law, including a reinvention of the Sephardim, as well as the reinvention of religious tolerance in the Middle Ages or *convivencia*, is the result of the evolution of *convivencia* discourses in 19th and 20th centuries explained here. In 2015, the deeply entrenched *filosefardismo* re-emerged in the law. This time, however the symbolic imagery of the Sephardic Jews was accompanied by references to the Holocaust and to the saviour role played by Spain, skipping the complicity of Franco with Hitler and the denationalization of Spanish Jews in 1943.

In my opinion, the reasons for this »*filosefardismo* 2.0« are similar to the reasons the intellectuals and members of Parliament had in 1868, or during the Restoration to update or re-conceive *convivencia*: in order to define or redefine national identity and find an effective symbol of the Europeanism

and cosmopolitanism of the Spanish Nation. Spain does this precisely in moments of political and institutional crisis: beginning with the territorial crisis of the Napoleonic Wars, all the way to the crisis surrounding the 1978 Constitution project and subsequent crisis of legitimacy left unresolved by the concessions made to the previous regime.

This law represents reconciliation and unity. The Spanish lawmakers, however, are single-handedly dictating the terms of the reconciliation. In it, they recreate once more a homogenous identity of Spain: always philosephardic, always helping the Jews, not directly responsible for the 1492 decree. The law also establishes a homogeneous identity for the Sephardim: cosmopolitan, pragmatic, ever faithful to the country that expelled them, never rancorous.

We cannot describe here the national identities existing in Spain. However, we can affirm that references to *convivencia* are constitutive of the discussions about them.

It is difficult to predict whether this law will alter or even influence the collective conscience or if it will have enough emotional force to create social consensus among Spanish citizens and Sephardic Jews or Jews in general. It is also difficult to foresee what effects such discourse can have in shaping the appearance of a new Spanish collective identity, one more international, closer to the cosmopolitan memory of the Holocaust and its global emotional charge. ¹³¹

Re-conceiving the past as a way of legitimizing a political or legal institution or national identity has a long story, as has been demonstrated by several authors. ¹³² In the case of Spain, it seems the references to *convivencia* or the »three cultures« to support national projects have been employed for almost two centuries. Considering the »song« of Bill 15/2015, we can conclude that the political use of *convivencia* as discourse for legitimating political and legal projects still has a bright future ahead.

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130 MAE Jiménez García-Herrera, 2011.
Quoted by GRAU SEGÚ (2016) 111.

131 ARAGONESES (2015).

132 HESPAÑHA (2004).

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