

## The Imperial Crisis of the Spanish Monarchy

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Spanish historians have always found it surprising that the greatest colonial loss ever suffered by any European monarchy did not bring about an intellectual reflection in the 1820s and 1830s similar to that which followed the loss of a handful of islands in the Caribbean and the China Sea in 1898. In fact, neither Ayacucho (the last battle in Peru in 1824) nor the hopeless resistance of Spanish troops in San Juan de Ulúa, Mexico, after 1821 produced the reaction of a national spirit in mourning, nor reflections on the place of Spain and Spanish civilization in the world. On the contrary, if there was any coincidence in the analyses made at the time, it was to emphasize the inevitability of the process understood as *emancipation*. One might argue about the more or less opportune timing of the event, but there was no doubt that the maturing of the American territories would, sooner or later, lead to their independence like a son who leaves home, guardianship and dependence on paternal authority to begin to his own life. It is not strange at all if after independence war gave way to a language of familiar reconciliation. During the negotiations for mutual diplomatic recognition between Mexico and Spain, that would be finally established in 1836, it came clearly out in words of the Spanish delegate: : ‘This [negotiation between Spain and Mexico] must be entered into, not as a treaty of peace, recognition and commerce between two different nations, but adopting the principle of the reconciliation of two members of the same family by means of which we may obtain commercial advantages greater than those enjoyed by more privileged nations ...’<sup>1</sup>

The compelling essay of José Manuel de Vadillo, written at the height of the crisis from a liberal perspective, shows us perfectly the climate of public opinion as regards American independence among liberal Spaniards at the end of this process of imperial decline. Although Vadillo's argument was contradicted by some leaders of American public opinion, like the Mexican Lorenzo Zavala, the basis of his thesis rested on an interesting paradox that stressed both the natural need for and the inconvenience of the independence of Spain's possessions in America. Incorporating the discourse on the benevolence of the Spaniards' conduct in their overseas domains Vadillo wanted to demonstrate that if independence as *emancipation* was unavoidable, there was no reason why it should come about through chaos and disorder, something which would serve only the interests of the British and North Americans. The work of liberals in Spanish America, argued Vadillo, might have made it possible to ‘bring about emancipation in a calm, orderly manner, and one therefore more useful to itself [Spanish America] than through bloody and anarchical revolutions.’<sup>2</sup>

In the years following the death of Ferdinand VII in 1833 when Francisco Martínez de la Rosa was called from exile by the Queen Regent, María Cristina, to strengthen the throne of the infant Queen Isabel II, and when the Royal Statute of 1834 was being drawn up, which created a parliamentary

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<sup>1</sup> ‘Noticias para un tratado con México’ (1835) in Luis Miguel Díaz and Jaime G. Martini, *Relaciones diplomáticas México-España*, Mexico DF, Porrúa, 1977, p.69.

<sup>2</sup> Alberto Gil Novalés (edition and introduction), *José Manuel de Vadillo y la independencia de América* (1828-1836), Madrid, Mapfre-Doce Calles-SECIB, 2006, p.228.

regime, public opinion began to blame the despotic regime of Ferdinand VII from 1814 to 1820 and again from 1823 to his death in 1833 as the main cause of the family rift between Americans and Spaniards. José Rivera Indarte, the Argentinian poet from Cordoba, an opponent of José Manuel Rosas, the omnipotent governor of Buenos Aires, addressed the Spanish poet from Granada Martínez de la Rosa, then prime minister, hailing him as the man responsible for restoring the freedom of Spain and explaining to him his thoughts on the advantages of Spanish recognition of the American republics. This was above all, as Vadillo also believed, a philosophical issue: if the war had lasted for years, it responded solely to the fact that ‘the party of fanaticism and oppression refused to acknowledge the sovereignty of the people ...’ Rivera Indarte insisted on the advantages that regularizing family relations with Spain would give the Americans legal security and commercial convenience.<sup>3</sup>

In short, at the time of the transition from despotism to a new constitutionalism (1834-1837) Spanish liberals finally reached a conclusion very similar to that expressed by most of eighteenth-century European thinkers: empires were morally acceptable only if conceived as commercial entities. If independence was as normal as the emancipation of a son who leaves the parental home on marrying or taking holy orders, all that remained was the familial bond that could assure commercial advantages. Several writers concerned with the problem of how to deal with the fact of American independence felt some kind of Spanish commonwealth was the most Spain could hope for: ‘... it is necessary to show the Spanish that their prosperity is intertwined with that of their brothers the Americans, and that their true interest lies in extending the sphere of their trade, suppressing the enormous jealousy and rancour of the old, exclusive system, and in making the Americans see that no one wishes to reign over them, but engage in trade together.’<sup>4</sup>

By the 1830s, all that remained, together with goodwill and no small amount of refinement and good manners, was mutual trade. Nevertheless, in the previous two decades, many other possible ways of politically reconfiguring a Hispanic space had been formulated, and some had even been attempted. They came in response to an event as unprecedented as the crisis the Spanish monarchy suffered in 1808 and tried to reinterpret the Spanish Atlantic in many ways. The American empire could become several independent political entities, or it could be imagined as a commonwealth, governed as a federal monarchy or as a group of peoples organised in a politically autonomous manner, linked by a single constitution and monarchy in the same body politic. Possible partitions of the monarchy into different American kingdoms, endowed with their own royal prince and federated under the Spanish monarch as emperor, were envisaged by the end of the eighteenth century. However, from the time of the 1808 crisis onwards the re-imagination of the Spanish Atlantic as a common body required some kind of constitutional solution. It was no longer about how the monarchy organized itself but about how the nation reconstituted the monarchy.

This became a question of both the history of European empires and the history of early constitutionalism. With the recognition of the independent republic of Mexico and other American republics by mid 1830s, it was the last phase of a problem that originated with the crisis of the monarchy in 1808 and the incapacity of early Spanish liberalism to deal with it in constitutional terms. However, an imperial crisis had preceded the 1808 crisis of the monarchy that was intimately related to the place of the Spanish monarchy and empire. It belongs in the context of the imperial politics which emerged from the wars of Spanish Succession (1701-1713) and that of the Seven

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<sup>3</sup> José Rivera Indarte, *El voto de América, o sea breve examen de esta cuestión: ¿Convendrá o no a las nuevas repúblicas el reconocimiento de su independencia, enviando embajadores a la corte de Madrid?*, Buenos Aires, Imprenta Real, 1835.

<sup>4</sup> Antonio Salas, *Memoria sobre la utilidad que resultará a la nación, y en especial a Cádiz, del reconocimiento de la independencia de América, y del libre comercio del Asia*, Cádiz, 1834, p.4.

Years (1756-1763). For most Spanish intellectuals and officials of the monarchy it was more than evident by 1763 that the *Catholic Monarchy* as it had been conceived from the sixteenth century was dying. Ministers as prominent as Pedro Rodríguez de Campomanes, president of the Council of Castille, or José de Gálvez, ministry of the Indies, openly proposed that Charles III transform the monarchy into a **commercial** empire.

They were perfectly conscious that Spanish expansion in the New World had been justified as a divine mission entrusted to the Catholic Kings of Spain. As Juan de Solórzano argued in 1647 in his influential *Política Indiana* -the key text on the nature of the monarchy for Spanish jurists and royal officials until to the late eighteenth century- the Spanish monarchy is best understood as the realization of a divine plan to catholicize the world. Accordingly, the Spanish conglomerate of kingdoms on the Atlantic and the Pacific rims embodied the empire given by God to the Spanish monarchy. Following Solórzano and other apologists of the Catholic monarchy, the accepted image affirmed that the Spanish monarchy had been endowed with these vast territories to perform the divine plan of conversion to Roman Catholicism. As argued in the numerous texts which described and justified Spanish expansion in America, this discourse was anything but innocent. On the contrary, it served to justify a holistic process of usurpation and domination.

At the same time, however, it was a discourse which did not correspond to the concept of modern empire, because it assumed that the moral background of empire was related more to commerce than to religion. In his influential works, Montesquieu criticized the Spanish monarchy as a “clerisy” and regarded its empire as ancient in character, founded on occupation domination. Many other European intellectuals followed him in reproducing an image of Spain as a peculiar form of monarchy: half European, half Asiatic. The interesting point here is that this same interpretation was widely accepted by Spanish intellectuals and royal officials.

In their view the idea of spiritual conquest, which had traditionally justified the enlargement of the Spanish Catholic monarchy, no longer made sense in the context of commercial empire. The models to be followed by Spain were no longer Rome or Israel but Britain, France and Holland. In order to save their monarchy, the Spanish kings Charles III and his son Charles IV had to transform it into a veritable commercial empire. Henceforth, a language of empire, metropolis, colonies and their commercial interrelation was employed by the royal bureaucracy. It was also the moment when some essential reforms were introduced into the administration of Spanish America, specifically the reorganization of viceroyalties, the introduction of the system of intendancies for territorial government, and of free trade.

Notwithstanding the efforts made in the 1770s and 1780s to “imperialize” the monarchy, by the end of the war with the French Republic in 1795, the impossibility of reviving Spain in the imperial European game was evident. On the one hand, Spain was definitely caught between the British empire, reshaped after the independence of North America, and the new, emergent French republican empire. On the other hand, at the heart of the Spanish court the confrontation between two factions led respectively by Charles IV and the Prince of Asturias escalated by the turn of the century into a power struggle, but both factions agreed over the need to submit to France and its new leader, Napoleon Bonaparte. This submission intensified the Spanish imperial crisis which preceded the crisis of the monarchy in 1808.

1808 was the key moment in a long-lasting imperial crisis that converged with a crisis of the monarchy itself. The eighteenth-century European debates about Spain and its significance for European civilisation, the presumption of the need to put the Spanish monarchy under foreign

tutelage was evident in the writings of intellectuals like Montesquieu or Edmund Burke, or the formulation of the concept of Spain as an intermediate type of monarchy between Britain and the Ottoman Empire, contextualize the failure of the attempts of transforming the ancient Catholic monarchy into a new competitive, commercial empire<sup>5</sup>. The decision of Bonaparte to intervene in the politics of the monarchy itself in May 1808 with the dynastic substitution of the Bourbons by his own family can be seen as the vindication of the enlightened European mind about the incapacity of Spain to manage her own empire. The imperial crisis and the monarchical crisis, thus, came together in 1808 in a way that proved fatal to the traditional Catholic Monarchy and favoured the blossoming of a new notion of the 'Catholic Nation' as a concept capable of replacing the king as the incarnation of sovereignty, as the Constitution of 1812 would state in its first articles. The purpose of this essay is to show how the imperial and monarchical crises originated in the field of the *ius gentium* (international law), would evoke an initial response immediately after the publication of the transfer of the crown to Napoleon in terms of *ius civile*. This was manifest in the setting up of the Juntas and the conviction that they were the trustees of the king's sovereignty, taken from the doctrine of civil law, and later in a constitutional solution in Cadiz between 1810 and 1812. International, civil, and constitutional law were, thus, the scenarios where the Spanish crisis evolved from imperial to national.

### *Revolution and imperial mediatization of the monarchy*<sup>6</sup>

European *litterati* was surprised in the 1770s to see how the British settlers in America had succeeded in opposing the parliamentary and royal despotism of London through a constitutional revolution. Pennsylvania, North Carolina and Virginia then produced constitutional governments that left European readers astonished in admiration. The French philosophers Denis Diderot and Gabriel Bonnot de Mably waxed lyrical about those texts, while the Italian intellectual Gaetano Filangieri asked Benjamin Franklin for his help in order to move to Philadelphia and participate in the American republican epic at first hand. Filangieri was never to reach America, but the texts and reports of that revolution would continue to arrive, demonstrating, on the one hand, that the independence of territories dependent on a European crown was somehow feasible and, on the other, that republicanism was practicable beyond the dimensions of a city-state. Both lessons were of the most relevance for the Hispanic conglomerate of kingdoms spread over America since local elites there could see how North Americans demonstrated that Jean Jacques Rousseau's idea of republicanism as a local manifestation could be successfully amplified to larger territories than the city-state.<sup>7</sup>

Although Spain, following an international policy shaped by its alliance with France, supported the American Revolution because it seriously weakened Britain, it could not remain immune to its consequences, as the Count of Aranda saw immediately and as practically all of the commentators of the Spanish crisis of 1808 would reiterate.<sup>8</sup> Unlike France, Spain had enormous overseas domains and its metropolitan *constitution* was far removed from the principles driving the North

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<sup>5</sup> Eva Botella, '¿Era inevitable 1808? Una revisión de la tradición de la decadencia española', *Revista de Occidente*, 326-327, 2008.

<sup>6</sup> By imperial mediatization I mean here the process of intervening that part of the Spanish monarchy that constituted her colonial wealth and of directing it to the benefit of a different metropolitan European power, namely France.

<sup>7</sup> José M. Portillo, 'Ilustración y despotismo ilustrado' in Miguel Artola (dir.), *Historia de Europa*, Madrid, Espasa, 2007. The need of reading the *Social Contract* (1762) as the result of local Genevian political experiences is stressed by Helena Rosenblatt, *Rousseau and Geneva. From the 'First Discourse' to the 'Social Contract', 1749-1762*, Cambridge, Cambridge University Press, 1997.

<sup>8</sup> Manuel Lucena, *Premoniciones de la independencia Iberoamericana*, Madrid, Mapfre-Doce Calles-SECIB, 2003.

American political experiment.

The start of the constitutional revolution in France in the summer of 1789 made it clear that from now on there would be a change in the political order of the old European monarchies. The first revolutionary regime, enshrined in the constitution of 1791, despite maintaining the presence of the king, was radically hostile to the political traditions of the monarchy.<sup>9</sup> With a great tradition of civic and openly republican historiography behind, the revolution of 1789 took a deliberate decision to produce a constitution as a purely political invention with no ties to history.<sup>10</sup>

Between 1776 and 1789, then, the Spanish monarchy had to face the fact of revolution. If Spanish ministers tried first to isolate Spain from the extraordinary events in France, it proved to be a vital necessity for the monarchy to act after the trial and execution of Louis XVI in January, 1793. The War of the First Coalition (1793-1798) was the context in which Manuel de Godoy, the factotum of Spanish politics, was definitively raised to unfettered power until the crisis of 1808. Although the war went badly for Spain, Godoy managed, en route, to get rid of the court party led by the Count of Aranda -more inclined to a recognition of the French republic- and organize his own faction, to support the king in his decision to wage war against the regicides. Conversely, the Treaty of Basle (1795) could be presented as a success, since Spain did not suffer territorial losses, while it also seemed as if the political situation in France was becoming more moderate by 1795.<sup>11</sup>

However, if the French 1795 constitution offered an end to the revolution and the consolidation of a stable constitutional regime, this did not mean that France had lost its powerful presence in Europe.<sup>12</sup> On the contrary, one of the bases for the consolidation of Napoleon's growing prestige after 1799 was precisely his imperial conception of the French republic and the promotion of the constitution as the reinforcement of the state power.<sup>13</sup> By the time Napoleon took power in France in 1799, Spain had already redirected its foreign policy, returning to the traditional family compact with France. From the arrival of the Bourbon family on the Spanish throne, Philip V in 1733 and 1743 and Charles III in 1761 signed the so called 'family treaties' with their French cousin, Louis XV. The notable difference in 1795 is that there was no longer a royal family on the French side of the compact, but a republic that was rapidly becoming an empire.

The Treaty of San Ildefonso in 1796, by which Spain readopted the policy of allying with France, marked the beginning of a process of imperial mediatization of the Spanish monarchy which culminated in the Treaty of Fontainebleau of 1807. During the decade that separates both pacts, Spain progressively put its overseas empire at the service of the emerging French empire, thus increasingly showing its dependence on France in terms of *ius gentium*<sup>14</sup>. The failure of the Peace

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<sup>9</sup> François Furet, *La monarchie républicaine. La constitution de 1791*, Paris, Fayard, 1997.

<sup>10</sup> Jacques de Saint-Victor, *Les racines de la liberté. Le débat français oublié 1689-1789*, Paris, Perrin, 2007. Ramón Maiz, *Nación y revolución: la teoría política de Emmanuel de Sieyès*, Madrid, Tecnos, 2007.

<sup>11</sup> Emilio La Parra, *La alianza de Godoy con los revolucionarios (España y Francia a fines del siglo XVIII)*, Madrid, CSIC, 1992.

<sup>12</sup> Michel Troper, *Terminer la Révolution. La constitution de 1795*, Paris, Fayard, 2007.

<sup>13</sup> Steven Englund, *Napoleon. A Political Life*, Harvard, Harvard University Press, 2004.

<sup>14</sup> *Ius gentium* Latin for International Law. More than to a positive law *ius gentium* referred to a doctrine that had been recently reformulated by Emmerich de Vattel, *Le Droit des Gens ou Principes de la Loi Naturelle* (1758). According to it *ius gentium* was about free nations with capacity to freely commit themselves through the means of treaties (commerce, assistance, war and peace) or to wage war against others. Peoples with no such capacities were not properly nations but colonies or dependancies. My argument here is that, in terms of *ius gentium*, Spain would become reduced from nation to a dependent part of the French republican empire. For the principles of the *ius gentium* at the time see Marti Kosekenniemi, *From Apology to Utopia. The Structure of International Legal Argument*, Cambridge,

of Amiens (1802) and the resumption of hostilities between France and Great Britain accentuated appreciably Spanish involvement in the French imperial strategies, as witnessed by the Treaty of Subsidies (1803) which to all intents and purposes placed the fiscal revenues of the Spanish Empire at the service of France. As Emilio La Parra has so aptly pointed out, there was no turning back and dependence on France would, in turn, in the years to come, become both the guarantee that allowed Charles IV and his own court faction led by Manuel de Godoy, to hold on to power, and the dagger which would deal the death blow to the monarchy.<sup>15</sup>

The Treaty of Subsidies demonstrated how far the imperial mediatization of the Spanish monarchy by the French imperial project actually reached. Because it envisaged an economic compensation in the highly probable case that Spain could not assist France with troops and, since Spanish fiscal revenues were literally exhausted, it implied the necessity of transferring funds to France from the imperial revenues of the monarchy. As a consequence, in 1804 the Spanish government extended to America a Royal decree of 1798 forcing the transfer of the monetary wealth from financial institutions -mostly ecclesiastical- to the Royal Treasury in order to consolidate the Spanish public debt (known as *Vales Reales*). In fact, this monetary wealth coming mostly from New Spain -the financial backbone of the empire- was redirected to meet the commitments made to France. Spanish Americans were experiencing both the politics of ministerial despotism and the consequences of the imperial mediatization of the Spanish monarchy.

The treaty of Fontainebleau, signed in October, 1807 can be considered as the culmination of this process. By this treaty the Spanish king, completely without precedent, allowed French troops free passage across the heartland of the monarchy, while still more troops were billeted on the border, ready to enter the Peninsula, as they eventually did. Officially headed for Portugal to join with Spanish troops to invade and partition its neighbour, the French army immediately garrisoned strategic fortress and cities in Spain, effectively dividing Spain along two lines, one from the French border to Burgos, Valladolid and, eventually to Madrid, and the other from the border to Catalonia. The idea of the need of placing Spain under foreign tutelage had finally become a fact.<sup>16</sup>

On the same day the new treaty was ratified by the king, a plot to overthrow Manuel de Godoy and force the abdication of Charles IV was discovered, centered around the Prince of Asturias. Some prominent courtly aristocrats, like the Duke of Infantado or the Marquis of Astorga, and the closest advisors of the Prince, like the cleric Juan Escoiquiz, seemed to be involved in the plot, although the special court charged with its investigation never found conclusive evidence. The plot, in any case, revealed the open hostility between the two courtly parties. Originally the so called "aristocratic party" had been formed around the idea of a constitutional regeneration of the monarchy, but by now, it was mainly fuelled by the desire to control the government. In fact, the two parties basically coincided in politics, above all in following an international policy of alliance with France, and fought only for power. Obviously that made Bonaparte's plans of intervening in the monarchy easier to fulfill.

1808: mediatization of the monarchy and general crisis

Although it is already part of a well-established historiographical discourse to speak of a French

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Cambridge University Press, 2005 chap. 2.

<sup>15</sup> Emilio La Parra, *Manuel de Godoy. La aventura del poder*, Barcelona, Tusquets, 2002.

<sup>16</sup> Pablo Fernández Albaladejo, 'Entre la *gravedad* y la *religión*: Montesquieu y la *tutela* de la monarquía católica en el primer setecientos', in his *Materia de España*, cit.

“invasion” of Spain at the end of 1807 and beginning of 1808, it is nevertheless technically wrong, for the large French army entered the Peninsula with the acquiescence of the sovereign. However, Napoleon did not have the authorization of a signed treaty to garrison strategic places or to organize a vice-regal government in Spain and entrust it to Marshal Murat, although he did exactly this. The occupation of Spain was the consequence of the previous mediatization of the benefits of empire and the projected mediatization of the monarchy, itself. Bonaparte was acting according to the logic of the combination of these two processes and not according to the text of the treaty of Fontainebleau. It is worth considering the difference created by the crisis of 1808, for it affected not only the imperial part of the monarchy and its revenues, but Spain, itself. With some thousands of troops inside Spain, a de facto government in the hands of Murat, and from the end of April, 1808 with the Spanish royal family in France Napoleon completed the mediatization of the monarchy in the succeeding months. In terms of the international law doctrine, the *ius gentium*, Spain ceased to be a nation and it had to be more properly considered a colony or dependent part of France.

On March 19<sup>th</sup> a new plot in Aranjuez -one of the royal residences near Madrid - succeeded in overthrowing Manuel de Godoy and forced Charles IV to abdicate in favor of his son, the Prince of Asturias. Ferdinand VII, now rapidly sought French imperial favor, as his own father did immediately the next day, now in order to declare his abdication illegal. The political behavior of both kings shows to what extent they had accepted the submission of the Spanish monarchy and its destiny to the decisions of the French emperor. If Napoleon had already probably made the decision to replace the Bourbon dynasty with his own, the Spanish royal family certainly made it easier.

There were early signs that Ferdinand and his court did not fit into Napoleon's imperial plans for Spain. At his entrance in Madrid the new king was rudely ignored by both Murat and the French ambassador. Later, when his delegates went to treat with Murat for recognition of his legitimacy as king of Spain by the French emperor, he learnt that Napoleon had already decided to include Spain in his projected confederation of southern Europe. The removal of the whole royal family to France in April, 1808, including the favourite Manuel de Godoy and the royal princes, completed the plan of leaving Spain bereft of the entire the royal family. Moreover, from Bayonne Charles IV immediately announced his willingness for Murat to become the governor of Spain.

The emperor, who considered Charles IV as the rightful king of Spain and dealt with him accordingly, literally bought the hereditary rights to the Spanish monarchy from father and son, between the 5th and 10th of May, 1808. In exchange for properties and fabulous pensions for life, Charles IV renounced his rights to Napoleon 'as the only man in the current state of affairs who can restore order' under the sole condition that the kingdom be kept united and no religion other than Catholicism be permitted. Likewise, Ferdinand renounced 'as far as necessary the rights he holds as Prince of Asturias'.<sup>17</sup>

After Bayonne, the Spanish monarchy was completely mediatised by Bonaparte. Although nominally it continued to exist under the new Bonaparte dynasty, in terms of *ius gentium* Spain had literally disappeared, absorbed by the French empire. As said before, the *droit des gens* or international law did not comply with a systematic and positive regulation of international norms but it was, rather, a juridical culture that informed how relations between States or sovereign nations

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<sup>17</sup> These treaties of renunciation by King Charles IV and Prince Ferdinand are cited in their reproduction translated from the French version that José María Queipo de Llano, Count of Toreno, included in an appendix, *Historia del levantamiento, guerra y revolución de España* (1835-1837), Pamplona, Ugoiti, 2008 (edition by Richard Hocquellet). The classical collection by Alejandro del Cantillo, *Tratados, convenios y declaraciones de paz y de comercio que han hecho con las potencias extranjerias los monarcas españoles de la casa de Borbón desde el año de 1700 hasta el día...*, Madrid, Alegría y Charlain, 1843, also drew on this documentation.

should be established making use of wars, treaties, alliances and federations. It was a juridical culture that only took account of political bodies endowed with their own, independent sovereignty. In this culture, the fact that a sovereign political body should be detached from any other was not an indispensable requisite for it to be considered as an independent nation, since it might well be linked through federations or other types of contract providing protection or aid. That had been the case of the Swiss Confederation before the French intervention in 1798 and, as the second president of the United States, John Adams wrote in 1787 it was also the case of some other republican governments incorporated to monarchies, like the case of the Basque province of Biscay in Spain.<sup>18</sup> The differentiating factor between *nation* and *country* in Emmerich de Vattel's terms was that the former might be able to act for itself in the context of international relations, and this was precisely what Spain lost between October, 1807, and May-July, 1808.

Taking control of the Spanish monarchy through the (illegal) surrender of the royal family, Napoleon went on to give Spain a new regime and a new king. The first he did with notable speed, for Murat immediately convened a meeting of notables in Bayonne to whom the emperor presented a constitutional text that, undergoing few changes when reviewed at Bayonne, was approved at the beginning of July.<sup>19</sup> The Constitutional Act of Spain, as interests us here, sanctioned the monarchy's lack of independence in the sphere of the *ius gentium*. On the one hand, its second article recognized the hereditary rights of the Bonaparte dynasty, and, on the other, article 124 established Spain's dependence on France in matters of international policy. In fact, part of the treaty made before between the two Bonaparte brothers was transferred to the Bayonne constitutional text by assigning Napoleon's dynastic rights to Joseph. The treaty of 5 July 1808, three days before the promulgation of the constitution, encumbered Spain with the costs of the purchase of the dynastic rights from Charles IV and his son (estates included) and established far more systematically the subordination of the Spanish monarchy to the French empire in international relationships. A secret clause, moreover, allowed French commerce to use the Spanish trading circuit in exchange for its protection.

The model of monarchy set out in this agreement and the constitutional text of Bayonne consisted of a conglomeration of metropolis and colonies in which both parties were in turn subordinate to the French empire. Both parts of the monarchy, metropolis and colonies, were also to be represented in the Cortes, although in different manners since the American provinces had only corporate representation, notably less numerous than that of the metropolis. The Napoleonic model made no distinctions in the economic and commercial sphere, establishing an open system from which French commerce could benefit, embodied in the treaty between Joseph and his brother Napoleon. In this sense, unlike the Cadiz constitution, the Bayonne constitution embodies fairly faithfully eighteenth century Spanish enlightened projects to establish an empire in the Hispanic Atlantic, based on commerce.

The consequence of this operation to implant a dynasty and subordinate the Spanish monarchy to the Napoleonic international order confronted the kingdom with the need either to choose to accept this situation as the one most convenient for Spain, or to resist it, refusing to obey the new king. The first of these positions was not without merit, since Joseph I could very well present himself as the enlightened monarch for whom most of the Spanish elites of previous decades had so longed. In fact, above all in metropolitan Spain, those in favour of accepting a king who presented himself

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<sup>18</sup> John Adams, *A Defence of the Constitution of Government of the United States of America*, London, C. Dilly, 1787 letter IV.

<sup>19</sup> Carmen Muñoz de Bustillo, *Bayona en Andalucía: el estado bonapartista en la prefectura de Xerez*, Madrid, CEPC, 1991.

with constitutional text in hand, the promise of legal codes and a rationalization of the administration, understood that the situation of subordination in the international order it also entailed might be worth the price. This explains why a very significant part of the intellectual elites connected to the government and administration were inclined to recognize the new monarch.<sup>20</sup>

Resisting the process of imperial mediatisation of the Spanish monarchy in its entirety (as a monarchy and as an empire) demanded for its part an exceptional determination in the face of the discrediting of the most important magistracies of the monarchy (the Council of Castile, law courts and chanceries) which bowed to the deals done in France. First it was the municipal councils, then immediately afterwards the emergency institutions, the juntas, who came out against the new dynasty implanted in Bayonne. Their main objective was to present themselves as institutions able to absorb the traditional legitimacy of the monarchy in order to avoid being seen solely as rebels with no commitment to order or devoid of legal status. The interesting thing is that the second response to the events of May, 1808, in Bayonne spread throughout the monarchy, thus giving this crisis, unlike the previous dynastic crisis at the beginning of the eighteenth century, the Atlantic dimension that would characterize it until its culmination in the independence of the American territories.<sup>21</sup>

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<sup>20</sup> Miguel Artola, *Los afrancesados (1953)*, Madrid, Alianza, 1989.

<sup>21</sup> Jaime E. Rodríguez O., *The Independence of Spanish America*, Cambridge, Cambridge U.P., 1998.