

## **VI. ANALYTIC SUMMARY**



**Alli Aranguren, Juan Cruz** (Universidad Pública de Navarra/Nafarroako Unibertsitate Publikoa): **La interpretación jurisprudencial y doctrinal de la Ley de Reforma de los Fueros de Navarra de 16 de agosto de 1841** (Jurisprudential and doctrinal interpretation of Law of reform of «fueros» of 16 August 1841). (Orig. es).

In *Iura Vasconiae*, 9, 327-373.

Abstract: The Kingdom of Navarre and its institutions disappeared with the first constitutionalism (1808-1814). After the Convention of Vergara, within the framework of the Constitution of 1837, Law of 25 October 1839 confirmed the «fueros» and their adaptation to the constitutional regime. The 1841 Law established the special regime of the provincial Council of Navarre with the recognition of administrative and economic self-government, different of «inside Government» of remaining provinces. Its nature has been discussed, whether it was or not agreed, if it is only legal or constitutional rule, if it is modifiable unilaterally or only through the agreement with the Government. This debate has fundamentally been doctrinal, and jurisprudence has made no contributions to this controversy; they just name it as «Agreed law of 1841».

Key words: Law of 25 October 1839. Law of 16 August 1841. 1841eko abuztuaren 16ko legea. Navarre's Foral Council. «Agreed» nature. Bilaterality and unilateralism.

**Ayerbe Iríbar, M<sup>a</sup> Rosa** (Universidad del País Vasco/Euskal Herriko Unibertsitatea): **El derecho a la conquista de Navarra (1512) por el rey Fernando, según algunos autores de la época. Juan Díez de Aux y Marcilla y su «Ivsta ocupación del Reino de Navarra»: sobre el derecho del Reino de Aragón a la vinculación de Navarra a ella y no a Castilla (1562-1572)** (The right to the conquest of Navarre by Ferdinand, according to some authors of the era (1512). Juan Díez de Aux y Marcilla and his «Ivsta ocupación del reino de Navarra»: on the law of the Kingdom of Aragon to her and not Castile Navarra linking (1562-1572)). (Orig. es).

In *Iura Vasconiae*, 9, 567-630.

Abstract: This is an unpublished text of the Aragonese historian Juan Díez de Aux y Garcés de Marcilla, a direct descendant of the famous Greater justice of Aragon, Martín Díez de Aux. Due to the Queen Jeanne III of Navarre's claims, he rectifies some of the statements made by the Spanish jurist Doctor Juan López de Vivero, known as Lope de Palacios Rubios, in the treaty that he wrote on behalf of Ferdinand the Catholic to justify conquest and occupation of the Kingdom of Navarre, and he claims the right of the King (Philippe II) to occupy Navarre because having Aragonese descent and not Castilian descent,

having been tyrannized the old Kingdom, since Sancho III the Great, by the own Kings of Navarre.

Key words: Juan Díaz de Aux, Garcés de Marcilla. Lope de Palacios Rubios. Conquest of 1512. Ferdinand the Catholic. Philippe II. Jeanne III of Navarre. Justification of the Spanish dominion over Navarre.

**Barandiaran Amillano, Alberto** (Berria): **Bataila guztien artean, nafarrak** (Among all the battles, the Navarre's). (Orig. eu).

In *Iura Vasconiae*, 9, 479-493.

Abstract: This text includes the essence of a series of four articles published between May 20 and June 10, 2012, in the sunday supplement of the Berria's newspaper, about the territory and the population of Navarre at the time of the conquest. Through the examination of the most significant books on the subject, and the interview with several of the most important Navarrese historians, the text is an effort to explain Navarre's social, economic and political situation in the late 15th century, the conquest's treatment that chroniclers of that time and subsequent historians made, and the consequences that the conquest had on the Navarre population.

Key words: Conquest of 1512. Navarre. Castilla. 15<sup>th</sup> century. Basque. Historians.

**Ezeizabarrena Saenz, Xabier** (Universidad del País Vasco/Euskal Herriko Unibertsitatea): **1839, 1841 y 1978: nota sobre hitos y paradojas de los Derechos Históricos de Euskal Herria** (1839, 1841 and 1978: note on milestones and paradoxes of the historical rights of Euskal Herria). (Orig. es).

In *Iura Vasconiae*, 9, 463-477.

Abstract: The specific nature of the public «foral» regime in the Basque territories is present throughout our legal and constitutional texts. This brief text underlines some peculiarities of the Law of 25 October 1839, and the so called «Agreed law of 1841» and their special treatment and regime within the 1978 Spanish Constitution.

Key words: Law of 25 October 1839. Law of 16 August 1841. Spanish Constitution of 1978. Historical rights. Basque autonomous Law.

**Herrero de Miñón, Miguel** (Consejo de Estado): **Derecho histórico frente al nuevo Derecho natural (constitucionalismo y foralidad)** (Historical Law against the new Natural Law (Constitutionalism and Basque autonomous Law)). (Orig. es).

In *Iura Vasconiae*, 9, 9-32.

Abstract: Although its preliminary discourse invokes historical precedents, Constitution (work of reasoning) breaks with historical singularities: different civil rules, different administrative and judicial districts, different institutions and courts, various ways to proceed with its collation, and I do not pretend to make any value judgment. The text of the Constitution of Cadiz can be better or worse than the Old Regime, but what now matters to highlight is that this was a result of the historical movement of a secular experience and that it was rationally designed to set up a new way of life, although the political circumstances in time extended the effective application of the constitutional principles.

Key words: Constitution of the Spanish monarchy of 1812. Law of 25 October 1839. Law of 21 July 1876. Spanish Constitution of 1978. Historical rights. Natural Law. Basque autonomous Law. Historical School of Law.

**Irujo Ametzaga, Xabier** (University of Nevada, Reno): **Naturaleza de la Ley de 16 de agosto de 1841 e implantación del sistema constitucional en Navarra** (Nature of the Law of 16 August 1841 and introduction of the Constitutional system in Navarre). (Orig. es).

In *Iura Vasconiae*, 9, 375-429.

Abstract: This article is about the political significance of Law of 16 August 1841, their doctrinal bases, execution and consequences, not only for the disappearance of Navarre as a State but also for navarrese people in their transit from a sovereign Kingdom's natives and inhabitants to citizens of the Spanish State.

Key words: Law of 16 August 1841. Navarre. Executive power. Municipal administrative law. The legislature. Judiciary. Communal. Fiscal autonomy.

**Larrazabal Basañez, Santiago** (Universidad de Deusto): **Evolución de los regímenes forales de las Provincias Vascongadas hasta 1876: Desarrollo foral en la interinidad en Álava, Bizkaia y Gipuzkoa** (Evolution of Foral's regimes of the basque provinces until 1876: «foral» development in the interim in Alava, Bizkaia and Gipuzkoa). (Orig. es).

In *Iura Vasconiae*, 9, 431-461.

Abstract: This article examines the evolution of «foral» regimes of Alava, Bizkaia and Gipuzkoa in the period between the enactment of the Law of 25 October 1839 and the Law of 21 July 1876, period that has been called by some authors «neoforal system» or «neoforality», and that is a progressive decline in the basic contents of the «foral» regime until their complete disappearance in

those territories. Within this historical period, we analyze three different phases: the first, from the Act of 1839 until the Constitution of 1845, with particular reference to what happened in 1841, a key year for the «fueros»; a second, from 1845 to the so-called «glorious revolution» of 1868; and a third and last, from 1868 until the final abolition of the «fueros» for the three Basque country provinces in 1876.

Key words: «Foral» territories. Álava, Bizkaia, Gipuzkoa. Spanish constitutions. Neo-«forality». 1839-1876.

**Mikelarena Peña, Fernando** (Universidad de Zaragoza): **La cuestión foral en relación con Navarra en la opinión publicada anterior e inmediatamente posterior a la ley de 25 de octubre de 1839** (The «foral» question in relation to Navarre in the published opinion before and immediately after the Law of 25 October 1839). (Orig. es).

In *Iura Vasconiae*, 9, 159-233.

Abstract: This article is a review of the published opinion on the Navarrese «foral» law question between 1835 and 1843 based on an exhaustive study of archive's documentation, brochures and newspaper articles. The starting point is the presumption that, considering the peculiarities warned in an earlier article about the characteristics of O'Donnell's revolt of October 1841, and on the possible extension of an integrationist sensitivity related to those, the Basque issue could have been more evident than commonly have been said so far because Sagaseta de Ilúrdoz's thesis for the defence of the Navarrese own constitutional positions is also present, in some way, as a possibility to refuse, not only in Yanguas's point of view about the law of 1841 but also in the speeches by some speakers in the debate in Courts.

Key words: Historical Constitution. Navarre. Law of 25 October 1839. Foral modification process. Carlist War. Liberalism. Carlism.

**Mikelarena Peña, Fernando** (Universidad de Zaragoza): **A propósito de un libro reciente sobre la Transición en Navarra: Juan-Cruz Alli Aranguren y Joaquín Gortari Unanua, «La Transición política en Navarra, 1979-1982»**. (On the subject of a book recently on the Transition in Navarre: Juan-Cruz Alli Aranguren and Joaquín Gortari Unanua, «La Transición política en Navarra, 1979-1982»). (Orig. es).

In *Iura Vasconiae*, 9, 531-565.

Abstract: In this article are weighted contributions relating to the analysis of the transition in Navarre by Joaquín Gortari Unanua and Juan Cruz Alli

Aranguren in a recent book. In relation to the narrative of the FASA issue carried out by the first of the authors, we add data provided with the reference to the relations between the main protagonists, and we highlight the shortcomings of the Navarre institutions in the «last franquismo» and in the immediately subsequent period. About the reconstruction of the process of improvement of the «Fuero», made by Juan Cruz Alli, we complete with informations about his proposals since 1976, the decisive role of Jaime Ignacio del Burgo Tajadura as a ideologue of it. The weight of the parallel negotiations carried out by Jaime Ignacio del Burgo, available by his relations with the UCD at state level and with the Government of Madrid, despite having been excluded from the Negotiating Committee Navarre, is also confirmed.

Key words: Transition. Navarre. FASA issue. LORAFNA. Navarre's Foral Council. Jaime Ignacio del Burgo Tajadura. Self-government.

**Monreal Zia, Gregorio** (Universidad Pública de Navarra/Nafarroako Unibertsitate Publikoa): **La elaboración de la ley de 25 de octubre de 1839.** (The drafting of the Law of 25 October 1839). (Orig. es).

In *Iura Vasconiae*, 9, 235-325.

Abstract: On August 31, 1839 was signed in Bergara an agreement between generals Espartero and Maroto ended the Carlist War with a commitment for the recognition of the Basque «Fueros». For this purpose immediately the Madrid Government introduced in the courts a draft law that provisionally confirmed charters but with the obligation to submit another modification further Bill to adapt them to the Constitution of 1837. The Government project, in the absence of the Executive's majority in the House, was altered in Committee and subsequently amended in a more severe way by a group of Deputies. As well and all, as a result of the development of the debate in the plenary, the Government managed to preserve the essence of the initial project, albeit with the added that the confirmation of the charters would be made «without prejudice to the constitutional unit». The Law was enacted on October 25, 1839.

Key words: Convention of Bergara. Basque autonomous Law. Spanish Constitution of 1837. Congress. Senate. Law of 25 October 1839.

**Rico Arrastia, María Iranzu** (Universidad Pública de Navarra/Nafarroako Unibertsitate Publikoa): **Iter procedimental de las visitas ad limina: el ejemplo de la diócesis de Pamplona** (Procedural *iter* of the *ad limina* visit: the Diocese of Pamplona as an example). (Orig. es).

In *Iura Vasconiae*, 9, 495-530.

Abstract: Since 1585, Catholic bishops were obliged to make *ad limina* visits regularly to inform the Holy See of the spiritual and material situation of their dioceses. Therefore, a detailed and documented procedure was established in every diocese as well in Rome. During the Modern Age, the bishops of Pamplona made the visits by proxy and sometimes, since 1867, personally. This article presents the *iter* and the types of documents produced by the visits of the bishops of Pamplona from 1585 to 1909.

Key words: Procedural *iter*. Diocese of Pamplona. *Ad limina* visit. Sacred Congregation of the Council. Holy See. Navarre. Gipuzkoa. History of Canon Law.

**Rodríguez Garraza, Rodrigo** (Universidad Complutense): **Transformación institucional de Navarra (1778-1841)** (Institutional transformation of Navarre (1778-1841)). (Orig. es).

In *Iura Vasconiae*, 9, 33-100.

Abstract: Not only the regime of the Illustration but also the illustrated Despotism, especially with Godoy, consolidate attacks to navarre constitutional system that, even with the Hapsburgs, were carried out. During the war of Independence, both Navarre and the Basque provinces, are involved in a vindication of their historical constitutions, as we can already see in the deliberations that took place on the occasion of the Statute of Bayonne. The offensive against navarre regime continues for Ferdinand VII's two restorations, without observing a major rift with the liberal regimens' performance, both of 1820-1823 and from 1833 and 1836. From here, it radicalizes the effort to destroy the basque and navarre foral system that only mitigate, with greater or lesser success, the attempts to transaction, with a course longer than the time-frame established here, and that, in the case of Navarre, culminated in 1841.

Key words: Enlightened despotism. Godoy. Restoration of Ferdinand VII. Basque and Navarre autonomous Law. Basque-navarre Confederate Constitution (1838). Transaction projects. Law of 16 August 1841.

**Sánchez-Prieto, Juan María** (Universidad Pública de Navarra/Nafarroako Unibertsitate Publikoa): **Constitución, Fueros y Democracia. Motivaciones, discursos y actitudes políticas con relación a la permanencia o abolición de los Fueros vasco-navarros** (Constitution, «fueros» and democracy. Motivations, discourses and political attitudes with regard to the permanence or abolition of the basque-navarre «fueros»). (Orig. es).

In *Iura Vasconiae*, 9, 101-157



Abstract: The «foral law question» implies a political and intellectual controversy of long course that it is essential to understand the evolution of the own Basque and Spanish contemporary identity. The text studies, from this perspective, several discourses and attitudes about the permanence and suppression of basque-navarre «fueros» manifested from the first critical illustrated, and that are associated to the different projects of construction of the new State from 1833 to 1876. The development of the debate shows the centrality of «fueros» in the struggle between the conceptions of a plural Spain and a singular Spain, defended both from different political-ideological assumptions.

Key words: Constitution. Basque autonomous Law. Liberalism. Democracy. Federalism. Carlism. Basque country. Navarre. Spain, 19th century.

### **Book review**

Three reviews. In: *Iura Vasconiae*, 9, 633-647.