

The Spanish citizenship and the Sephardim: identity, politics, rights

Maite Ojeda-Mata

Summary

At the end of 2012 the Spanish government announced its intention to approve a law to facilitate recognition of Spanish citizenship to the Sephardim. This law has only recently got final approval of the Spanish Parliament. In this article I address the conceptual-symbolic and political-historical long term context in which this law is inserted as well as its development from 2012 to its final approval. I confront its legitimizing arguments with its concrete results. I conclude confirming that the notion of "Sephardic identity" in contemporary Spain does not originate in the Sephardim self-definition. On the contrary, this notion of the Sephardim in Spain is a product of more than a century of ambivalent policies. This identity construction is used as a legitimizing argument in adopting certain policies. However, it is not the reason for the granting of citizenship to the Sephardim. Political and diplomatic strategies, ethnicist policies, *raison d'État* have guided and guide the Spanish approach to the Sephardim since the nineteenth century.

Introduction: on legitimizing identities

What is identity? According to Craig Calhoun, identity is a source of meaning and experience for individuals (Calhoun 1994: 9-10). Manuel Castells understands that meaning, in the case of collective identities, as the product of a construction process. Surely, that creative action can come from certain cultural attributes, but most important is that the invention process cannot be separated from the context of power relations. It will come from either the dominant institutions or the resistance movements. Castells labels those identities invented by the institutions of power "legitimizing identities". What is sought with this type of identity is to extend its control (Castells, 1997: 6-8). In the case study presented here, a process of inventing a legitimizing identity promoted by

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the dominant institutions, there are the Sephardim -descendants of those Jews expelled from the Iberian Kingdoms in the fifteenth and sixteenth centuries- in contemporary Spain. The notion of Sephardic identity in contemporary Spain must be understood within the logic behind modern nation-States. By this logic, the only principle of inclusion/exclusion is the borders of the "nation".

But, what is a nation? In this area there are two opposing and well know theories, the "essentialist" versus the "constructivist", which I briefly summarize here. The essentialist thesis of the so called "primordialists" defends the idea of the ethnicity of nations (real or imagined). In this line is the work of Anthony D. Smith on the ethnic origin of nations (Smith, 1986). The constructivist approach of the "modernists", as Ernest Gellner (1983) and Benedict Anderson (1983), considers national identity as something modern and always constructed. For the analysis of Sephardic identity in contemporary Spain are more appropriate the modernist constructivist thesis. According to Gellner it is the emergence of nationalism which engenders nations, and not vice versa (Gellner 1983, 1994: 64). Similarly, for Anderson nations are ideological creations in an effort to forge cultural group boundaries in relation to the State. This does not mean that there were no shared cultures before the creation of national identities. On the contrary, nationalism usually transforms existing cultural elements and emphasizes cultural similarity of its members (Anderson 1983). This is the reason why most nationalisms are justified in ethno-cultural terms. In addition, they appeal to primordial loyalties while establishing cultural boundaries with respect to one another, outsiders, strangers, intruders. Political rights, citizenship, will be restricted to members of the nation. But this dichotomy between insiders and outsiders in practice presents numerous problems, which are solved with invisibilizations and amnesias. Moreover, the definition of cultural boundaries of the group is a selective and changing process which in the case of nationalism requires reinterpretations of the past (Eriksen 1993: 6, 102). Therefore, along with the shared culture, history is another key element for national identities. Therefore, nationalism is always involved in a task of writing history, as it aims to establish the relationship between history and nation (Berger, Donovan, & Passmore, 1999: 3). Thus, historiographical practice becomes a major source of legitimacy in modern nation-States (Hutchinson & Smith, 1996).

In spite that some authors, like Castells, believe that nationalism in today's globalized world is losing strength in shaping the genesis of socio-political identities (Castells

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1997: 70, 420); in fact it remains a political instrument still widely used. An example is the case study presented here: the recent Act for the nationalization of Sephardim in Spain. This Act claims to promote the incorporation of the Sephardim, conceptually and symbolically as well as politically and legally, in the Spanish nation. That is, formulates its ethno-national belonging and facilitates the acquisition of Spanish citizenship. However, this law, though seemingly inclusive, hides, and thus underestimates, the Sephardim and their cultures, reinterpreting their cultural identities and rewriting their collective historical memories.

This article is an anthropological historical journey from the origins of the incorporation of the Sephardim in contemporary Spain to the recent citizenship law. First, I devote a section to identity conceptualizations. The comparison with the different approach (or, better, absence of approach) to the descendants of the expelled Muslims in Spain is very revealing. But the imaginaries of identity are relevant as they relate to political practices, which ultimately is what has an impact on the lives of people. Therefore I also address a more substantive aspect of identity: legal practice. That is, the legal and political framework that will incorporate/not incorporate the Sephardim in Spain, and also the descendants of expelled Muslims. So, the more substantive aspect of this history, the juridical implementation of an ethnic ideology, is enlightened again thanks to the comparative view. Finally, I analyze the recent Act in light of the historical-political and conceptual background exposed.

This research is based on a previous work, *Ambivalent Identities: Sephardim in contemporary Spain* (Ojeda Mata, 2012, in Spanish). At that time I studied the symbolic and political consideration and treatment of the Sephardim in contemporary Spain from the mid-nineteenth to the mid-twentieth century. That preceding research served as a basis for placing the conceptual and political origins of the recent nationalization Act for granting citizenship to Sephardim. Moreover, as I have indicated, this time I address these issues from a comparative perspective. If before I had focused on the relationship between the Spanish State and the Sephardic Diaspora, now I also compare briefly this relationship with the experience of the descendants of the expelled Muslims. It completes this article a recounting of naturalizations issued by Spain to persons of Sephardic background since 1940.

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Shared ethnicities: on incorporation of Jews and Muslims to Spanishness

The formation of the Spanish State is early and goes back to the late Middle Ages and the beginnings of the modern period. Its constitution is parallel to the advance of the Christian troops to the south of the peninsula at the expense of the Muslim territories. Its creation was the result of an alliance between the crowns of Castile and Aragon. However, it was not until the early eighteenth century when the political institutions were centralized. A century later, the conflict with France brought new arguments for the cohesion of the State. Thus, in the fight against the French it was appealed to the country's defence of the "nation" and "common homeland", beyond the defence of the king and religion (Fradera, 1999: 51). This process was led by the liberal right, champions of the modern nation-State (Mar-Miller & Smith, 1996). As a result of these political changes there was also the gradual disappearance of the previous socio-political system of classification and the formation of a new one. It was a long process in which, not without conflicts, was redefined the modern citizen. The lineage and religion as sources of socio-political identities became replaced by ethnic and cultural distinctiveness (Stolcke, 1997). Religion was seen as another cultural trait, although not as important as language. In fact, the language is the backbone of most European nationalisms. However, in situations where the Catholic tradition continued to have an important weight, Catholicism was incorporated into the national identity (Alonso García, 2007).

The development of nationalism occurred in a context of a new wave of European and North American colonial expansion which culminated in its direct or indirect domination of almost the whole world by the end of the nineteenth century. However, in the case of Spain the nineteenth century marks the colonial decline with the gradual loss of its Atlantic and Pacific colonies. A weakened former colonial empire in search for new horizons and markets found a new focus of interest in North Africa and, to a lesser extent, the Ottoman Empire. There were the bulk of the descendants of the Hispano-Jewish Diaspora. In parallel, a renewed interest in the history and culture of Muslims and Jews began, not in theological aspects as in the past but in cultural and historical terms. Culture came to occupy the central place that religion had previously taken. Thus, Arab and Jewish cultures, which until then had only been a source of theological concern, became appreciated for its mainly cultural interest. The Arabic and Hebrew studies received new impetus and were displaced from ecclesiastical institutions to State

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institutions and linked to their colonial potential. But, unlike the European *Orientalism*, interest in Spain by Muslims and Jews also derived from the role they were acquiring in the Spanish national reflection. These studies will have a major impact on concerns about the origins, being and future of a Spanish nation in process of construction. Medieval Arabs and Jews helped explain the peculiarity of the Spanish identity. Identity envisaged as nurtured from different racial and cultural contributions, and not all Christians and “Spaniards”. Indeed, the cultural reflection in relation to Muslims arose, first, in relation to the influence of Arabic in the Spanish language in the eighteenth century. Historiography was also very important to understand the formation of a new Spanish imaginary regarding Muslims and Jews (noteworthy in this regard the work of José Amador de los Ríos, 1876).

However, national incorporation of Muslims and Jews was not without its problems and contradictory approaches. One of the main points in dispute was the interpretation of the expulsion of the Jews in 1492. The liberals considered its expulsion as the cause of the decline of Spain. The best advocate of this thesis was Américo Castro. To this he dedicated his work *España en su historia: cristianos, moros y judíos* (“Spain in its history: Christians, Moors and Jews”, 1948). Meanwhile, moderate conservatives since the late nineteenth century stopped supporting the toughest Catholic thesis. They will interpret the expulsion of Jews and Muslims as a “historical imperative” (as in the present Act, which uses the same terms developed by the Spanish conservative party in power). Moderate conservatives, unlike most intransigent Catholicism, lamented these expulsions, but did not believe they were the cause of the Spanish decline. They felt that, on the contrary, had contributed positively to the Spanish spiritual unity. For Marcelino Menéndez Pelayo, the particularity of the Spanish nation was precisely its Catholicism. It gave the Spanish nation its “conscience of Spanishness” above the obvious cultural differences between Spanish citizens (Setién, 1994: 104). Hispano-Muslims, unlike Jews, were characterized by the nineteenth-century historiography as a historical political threat for Spain, as partners of Turks and Moors. Expulsion would have been based on the *raison d’État*, as the Catholic monarchy saw them as real and potential allies of Ottoman and North African Muslims. On the other hand, the Hispanic Jews of the fifteenth century were depicted in the nineteenth century as rich and cultivated, engaged in trade and the professions. Seventeenth century Moors were presented by nineteenth century historians as poor and uneducated, mainly devoted to

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agricultural activities. Although the Liberals also lamented the expulsion of the Muslims, they did not consider it as catastrophic as that of the Jews (Rivière Gómez, 2000). This image of the Moors in Spain contrasts with the superiority attributed to the descendants of the Hispano-Muslims in the Maghreb compared to the rest of Muslims by Spanish colonialism.

The rise of raciology, or the “science of races”, in the late nineteenth century, will bring new contradictory interpretations of the "essence" or "being" of the Spaniards. Very present in the Generation of '98, authors such as Ramón del Valle Inclán or Pío Baroja reflected in their novels stereotypical ideas about racial mixing in Spain. Jews and Muslims appear again differently characterized in line with the historiographical thesis, now also racial. Jews were described as rich, greedy usurers, lovers of luxury and money. Muslims were portrayed as poor, brutes, and ignorant. They shaped the Spanish miscegenation. The Catalans were attributed a Jewish and Phoenician origin for their supposedly greatest interest in money. People from Andalusian origin were considered descendants of Muslims for their alleged ignorance and primitivism, the “Spaniards” (Castilians?) were reserved most noble and warrior virtues, they descended from the Iberians!¹

We also found from the early twentieth century the called "philosephardic" movement that promotes the cultural approach to the Sephardic Diaspora, mainly in the Muslim Mediterranean. See, for example, one of its most emblematic and suggestive titles – *Españoles sin patria y la raza sefardí* (“Spanish Stateless and the Sephardic Race”), from the doctor and senator Angel Pulido, published in 1905. Most of the Moroccan - and also part of the Ottoman- Sephardic elite responded favourably to this call (as they did to other approaches from other European powers), in some cases endorsing this thesis and defending with it fervour. Several institutions were created by Spanish pro-Sephardic associations, or jointly with Sephardim, to promote the rapprochement. These include the House of Spain in Istanbul, the Hispano-Moroccan Associations, or the Universal House of the Sephardim in Madrid. However, other members of the Sephardic elites were more critical of the real reasons, economic and political, of philosephardism. For example, the Sephardic intellectual Abraham Shalom Yehuda

¹ See, for example: *El árbol de la ciencia* by Pío Baroja (1911); or *Luces de Bohemia* by Ramón del Valle Inclán (1920).

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rejected it for its hypocrisy, as it projected to use the Sephardim in the process of regeneration of Spain (Yehuda, 1996 [1924]).

An example of early institutional penetration philosephardic ideas is found in the Ministry of State (Foreign Affairs). Since at least the 1920s, senior officials of this Ministry incorporated philosephardism as an instrument of Spanish foreign policy. The Sephardic subject was also introduced in the training of future diplomats. And, at present, is still part of the examination program of access to the diplomatic career that applicants must know. However, the Sephardim always were perceived with ambivalence by the Spanish bureaucrats of the Ministry of State. In 1930, José María Doussinague defined them as: "... racially intermediate people, between the pure Israelite and the Castilian."² Also the descendants of Muslims, especially in Morocco, although with more ambiguity and less consistency.³ However with the arrival of the II Republic in 1931, many Spanish intellectuals, politicians, diplomats and members of the government were in favour of closer ties to the Jews, as Luís de Zulueta (Radical), Juan Negrín (Socialist), Margarita Nelken (Socialist) and Salvador de Madariaga (Liberal) (Alvarez Chillida 2002: 306). And, despite all the rhetoric and anti-non-Catholics policies of Franco, philosephardism also penetrated the imagination of the fascist type regime. Do not forget that some of the bureaucrats and diplomats that supported Franco had defended a philosephardic approach: for example, in the Ministry of State the aforementioned Doussinague or José Antonio de Sangróniz. In the Army the "africanist" high rank military officers such as Tomás García Figueras or Francisco Gomez Jordana, and even members of *Falange Española*, the Spanish fascist party, as the intellectuals Agustín de Foxá or Ernesto Giménez Caballero. The philosephardism of the regime, after some dark years, was reactivated from the 1960s. An example of this is the creation of the Sephardic Museum of Toledo in 1964. Its establishment was justified in the following terms:

"The interest offered by the history of Jews in our country is double, because if on the one hand their study is convenient for a good knowledge of the Spaniards, given the

² Letter of Doussinague to the Minister of National Economy, March 22, 1930, in Lisbona (1993:39).

³ For a critical analysis of the ethno-cultural notions of shared identity among Muslims from Morocco and Spaniards in the Spanish colonialism see studies about it by Josep Lluís Mateo Dieste, such as his recent article "Una hermandad en tensión. Ideología colonial, barreras e intersecciones hispano-marroquíes en el protectorado" (Mateo Dieste, 2012).

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secular presence in Spain of the Jewish people, it is also essential to the cultural and historical entity of these people the assimilation that some of their lineages made of the Hispanic genius and mind through a long coexistence.”⁴

With the advent of democracy and at the doors of the *V Centenario*'s commemorations in Spain, the Sephardim received the Prince of Asturias Concord Award in 1990, shortly after the establishment of diplomatic relations between Spain and Israel in 1986. The jury of the Prince of Asturias Prize defined the Sephardim as an "endearing part of the great Hispanic family" that became "far from home" in an "itinerant Spain", etc.⁵ The 1992 *V Centenario* was a cultural, but also a political and ideological event for the symbolic "reconciliation" with the Sephardim. The events to commemorate the four hundred anniversary of expulsion of the Moors from Spain (1609-2009) were much more discreet and modest. And, of course, they did not have the character of a national holiday that had 1992. Let's see if it will be a *V Centenario* in 2109.

The juridical (re)incorporation of the descendants of those expelled

Made this brief review of the historical, political and ideological context, let us now turn to the substance of the legal framework. What juridical impact had the conceptual incorporation of Jews and Muslims in the history of Spain and the Spanish identity?

Certainly the cultural, political and ideological changes that began with the Enlightenment will leave their mark on the legal framework. Already during the reign of Carlos III (1759-1788), there were introduced a number of social and political reforms. Among these reforms was the extension of civil rights for the Roma and the *Xuetes*, a stigmatised and endogamic group of Catholics descents of converts from Judaism in the Island of Mallorca. Those are also the years in which the process of bringing Spain and the Sephardic Diaspora began through the Spanish diplomats in Morocco and the Ottoman and former Ottoman lands. In those years, both Morocco and the Ottoman Empire reopened their borders. Various formal international agreements were to facilitate relations between Europe and these empires. In the Spanish case, 1783 set an end to centuries of conflict between Spain and the Middle East. The elites of various

⁴ Decree 874/1964 of 18 March, that creates the Sephardic Museum of Toledo.

⁵ Minutes of the Jury of the Prince of Asturias for Concord Award, Oviedo, June 1, 1990.

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religious minorities were already performing functions of commercial mediation between North Africa, the Ottoman Empire and several European countries. These minorities increasingly enjoyed consular protection from the European powers (Martin Asuero, 2007). However, it was needed almost a century before Spain openly admitted practitioners of non-Catholic religions in its national territory and colonies (Alonso García, 2007). The legislative change took place in parallel to the increase of colonial pressure in Morocco. Without this change in the legal framework it could not had been possible the granting of Spanish citizenship to several Jewish notables of that country. The first nationalizations were promoted after the liberal revolution of 1868 and the promulgation of the Constitution of 1869.⁶ Since then there was a steady trickle of granting Spanish citizenship of fourth class –by the extraordinary process of *naturalization*- to Sephardim from Morocco. This course continued, not without ups and downs linked to the political situation of the moment, until the Spanish Civil War.

During the Protectorate of Spain in Morocco (1912-1956), access to Spanish citizenship by naturalization was facilitated to those who had served in the “indigenous” military corps of Spain in that country, also known as "Moorish troops", as well as some Muslim notable protected by Spain. But despite the rhetoric of the Hispano-Muslim Brotherhood at the time of the Protectorate (Mateo Dieste, 2012), no specific legislation was passed to facilitate the nationalization of descendants of the expelled Muslims. Some Muslims were consular protégées for political reasons, by virtue of his office as secretaries or soldiers of the diplomatic missions or rural agents at the service of foreign companies. The Jews, especially the Sephardic elites of the cities, were also favoured with consular protections, although in his case primarily as commercial agents in import and export activities and in its role as interpreters of foreign embassies. These consular protections were the prelude to the extraordinary naturalization processes that benefited mainly Sephardim of Morocco as already mentioned. Thus, from the late nineteenth century and early twentieth century the Sephardim of Morocco, Spanish protégées, were the main foreign beneficiaries of these extraordinary processes of naturalization. Although in the naturalization decrees was never mentioned that they were granted Spanish citizenship because they were Sephardim, in fact they were (Ojeda Mata, 2014).

⁶ See *Gazeta de Madrid* for the period 1869-1892, where the Spanish citizenship is granted to more than twenty Moroccan Sephardim.

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In 1924, after the creation of the Republic of Turkey, Spain, following the example of other European countries, approved a Royal Decree intended to the naturalization of its former protégées in Turkey and other countries in the region. The emerging Turkish and Balkan nationalisms made it unfeasible the continuity of the consular protection system, considered a residue of colonialism. This Decree, which has many similarities with the Act of June 2015, was addressed, although again not expressly stated, to the Sephardim of the defunct Ottoman Empire. The beneficiaries were to be only old Spanish protégés to the extent that they were as well of "Spanish origin"; in practice only the Sephardim met the two conditions. It was not the case, for example, of Maronite Christians and other beneficiaries of Spanish protection in the Mediterranean East. Another similarity with the current Act is that the deadline to apply for Spanish citizenship was not indefinite. The Sephardim old Spanish protégées who wished to apply for Spanish citizenship has only until 1930 to do so. It did not require moving to Spain to make the corresponding registration in the Spanish Central Registry of Citizens. They could register with the same effects on Consular Civil registries, because the goal of this decree was to continue using the Sephardim as an instrument of market penetration and cultural prestige in the Levant area.⁷

The governments of the Second Republic enunciated, but failed to approve a law, the possibility of extending the naturalization to all Sephardim. This lack of legal realization was due to the strong opposition and antisemitism of the most conservative sectors of the Spanish society (González García, 2004; Rohr, 2006). However, it was approved the acquisition of Spanish citizenship after a period of residence in Spain of only two years -not ten as for other foreigners- to people from the colonies, or former Spanish colonies, as well as from the protectorate of Spain in Morocco.⁸ And, although the decree did not mention again directly to the Sephardim, it was passed in fact from them. This is what emerges from the telegram that, after adoption of the law, Indalecio Prieto sent Melilla (a Spanish city in the North Africa bordering with Morocco with an important Sephardic settlement):

⁷ Royal Decree of nationalization of former protégées of Spanish origin December 20, 1924, *Gazeta de Madrid*, No. 356, December 21, 1924.

⁸ Art. 4. Decree providing hereinafter to meet to the rules and conditions established the justification and declaration of having acquired residence of foreigners in Spain, *Gazeta de Madrid*, April 30, 1931.

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“The Council of Ministers held this afternoon approved a decree by which the Sephardim living our cities of sovereignty and the area of our protectorate in Morocco will find great opportunities of acquiring Spanish nationality that many of them long for broadly.”⁹

The Civil War laid an end to the liberal approach to the Sephardim that culminated with the Republic. Franco's victory would mark a before and after for the Sephardic Jews in Spain, which did not soften until the 1960s. From 1939, Moroccan Muslims were the main beneficiaries in Spanish naturalization processes, especially members of the indigenous military forces that fought with Franco during the Civil War.¹⁰ If between 1931 and 1935, at least forty-five Moroccan Sephardim obtained Spanish citizenship, between 1939 and 1959 will be more than a hundred Muslims from Morocco the beneficiaries. Certainly, the figure may not seem very important, but it is when you consider that prior to 1936 the nationalization of Muslims by the extraordinary way of naturalization had been very limited. Most of these Moroccan Muslims were nationalized after the war as veterans and members of the indigenous regular forces. The few Sephardim who managed to acquire Spanish citizenship in this period were also war veterans or members of the so called "Moorish troops" (yes, there were “Jews” in the “Moorish” troops, as “Moorish” referred widely to natives of Morocco).¹¹ White Russians and Portuguese and other foreign veterans that helped the fascists in the war also benefited from Spanish naturalization.¹²

By the late 1950s and the 1960s, there is a new turning point in the nationalization of Sephardim in Spain. The decolonization of the Arab world and the worsening of the Israeli-Arab conflict led to a large part of the Jews of these countries to leave their homes. The destinations: the Americas, France, Israel and Spain. Spain recovered thereby the rate of nationalization of Sephardim from Morocco by naturalization of the decades preceding the Civil War. More than twenty Moroccan Sephardic Jews obtained Spanish citizenship between 1960 and 1969, like many other Muslims in Morocco. Moroccan Muslims and Jews together doubled the total nationalizations of Latin-

⁹ Telegram from Indalecio Prieto to Carlos Echeburu Carlos of the local Socialist-Republican committee of Melilla, April 27, 1931, cf. Salafraña Ortega (1995: 228-229).

¹⁰ See *Gazeta de Madrid*, 1824-1936, and the *Boletín Oficial del Estado* (onwards BOE), 1939-1967.

¹¹ See, for example, the nationalization decree of David Bendayan Levy, "veteran of our war of liberation and useful Mutilated Caballero for the Motherland", BOE, no. 193 of July 12th, 1951.

¹² See BOE for the years 1939-1959.

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Americans and Philippines during the same period. The seventies were the years of recovery of Spanish nationality of other more recent dispossessed, the losers of the Spanish Civil War that left the country after the conflict. The Sephardim follow them, to a lesser extent, as main beneficiaries in the seventies.¹³

Re-established democracy, the legal framework of reference, the Law 51/1982, of July 13, reduced from ten to two years the period of continuous legal residence to apply for Spanish citizenship by residence for certain categories. These were Latin Americans, Andorrans, Philippines, Equatorial Guineans, Portuguese and Sephardim.¹⁴ The reason given for positive discrimination of these categories, says this Act is its "special relationship with Spain". However, the Sephardim would be the only ones of this list who could not qualify to hold dual citizenship.¹⁵ The recognition of dual citizenship is based on several bilateral agreements signed between Spain and countries of origin of these citizens. The Sephardic Diaspora and the still no legal relations opened between Spain and the State of Israel disqualified Sephardim from dual citizenship. The descendants of the expelled Muslims are not mentioned in the 1982 law, and are therefore excluded from the possibility of acquiring Spanish citizenship after a period of residence of two years. Neither the Saharawi people from the former Spanish colony of Rio de Oro in the Western Sahara (today Kingdom of Morocco), nor Muslim Moroccans from the former Spanish protectorate are contemplated in this law. However, in the case of the Saharawi people, a transitional law had allowed them to opt for Spanish citizenship after Spain withdrew from Western Sahara in 1976.¹⁶

The Sephardim can also continue to apply, like any other foreigner, for Spanish citizenship by naturalization. In this case, the current wording of the Civil Code, with the 1982 reform, explicitly adds the need of concurrency of "exceptional circumstances" in the applicant.¹⁷ These "circumstances" in the case of Sephardim, were initially family name and language. However, at the proposal of the Minister of Justice, Enrique

¹³ See BOE for the years 1960-2014.

¹⁴ Art. 22 of the Civil Code

¹⁵ Act 51/1982, of July 13, amending Articles 17 to 26 of the Civil Code, BOE July 30, 1982.

¹⁶ Shortly after the withdrawal of the Spanish colonial territory in 1976, they were given the opportunity to opt for Spanish citizenship. The option was exercisable within one year and they had to renounce to any other citizenship; see Royal Decree 2258/1976, on choice of Spanish nationality by nationals of Sahara.

¹⁷ Act 51/1982 of 13 July amending Articles 17 to 26 of the Civil Code, BOE July 30, 1982.

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Mugica Herzog, whose mother was Jewish, this was not a realistic and just requirement. The changes in the names of the Sephardim and the dramatic reduction of the number of Judeo-Spanish speakers in the past two centuries due to the assimilative policies of the countries where they lived made difficult to prove by these means their Sephardic identity.¹⁸ Therefore, the legislator adopted a more flexible approach, open to study each case individually in all its complexity.

Analysing the decrees of naturalization of the last one hundred and fifty years, and despite the conceptual ambivalences and the juridical lagoons of the 1940s and fifties, if we attend to the number of foreigners that obtained Spanish citizenship, the Sephardim are no doubt one of the main beneficiaries. In the last twenty years they have been the foreign population most benefited with the acquisition of Spanish citizenship by naturalization. Between 2009 and 2014 of more than 470 approved naturalization files, at least 300 were Sephardic Jews.¹⁹

This leads us to the recent Act granting citizenship to the Sephardim that was approved just before the summer of 2015, whose main objective seems to be to clarify what have to be those exceptional circumstances, in the case of the Sephardim, that are necessary to gain Spanish citizenship by naturalization.²⁰ In the opening explanatory memorandum we can see reflected the idea of Sephardic Jews rooted in the second half of the nineteenth century as explained earlier in this article, both in the definition of Sephardim as in its justification as the result of the culmination of a process of reintegration that goes back to the 1860s. An interpretation, however, of this process heavily biased.

Several features of the Act show that it is not what it says to be in the first lines: that is, a reparation of a historical injustice. First it is an exceptional, and time limited, law, that, in fact, remembers the Royal Decree of 1924. I suspect that, given the restrictions on who would be eligible and for how long they could apply; this Act won't be the last. This extraordinary naturalization process entails the prerequisite of the existence of exceptional circumstances. We might think that being a Sephardic Jew is that

¹⁸ Internal undated and unsigned report of the Lawyers Association of Madrid, http://www.icam.es/docs/ficheros/200407190008_6_6.pdf.

¹⁹ See BOE for the years 2009-2014.

²⁰ Act 12/2015 of 24 June, on the granting of Spanish nationality to the Sephardim, BOE June 25, 2015.

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exceptional condition, but it is not. In addition of proving being Sephardic, they must show a special bond with Spain. The proof of being Sephardic will be assessed with the sum of several documents as a whole: a certificate by President of the Federation of Jewish Communities of Spain or the like in the area of residence or hometown of the interested person, a certificate of a rabbinical authority of the country of residence of the applicant, surnames or family language, "ketubah" or marriage certificate attesting its celebration as the traditions of Castilla, etc. It will also be taken into account any signs of the applicant belonging to the Spanish community in his/her country of residence. But this is not enough; applicants must demonstrate a special relationship with Spanish culture and customs. This is the second condition. How? Having studied Spanish culture and history; to proof the knowledge of a variant of Judeo-Spanish (ladino or haketia); have been in the lists of Sephardic families protected by Spain in Greece and Egypt in 1948 or being a descendant of a person from those lists, or from those who got their naturalization through the Royal Decree of December 20, 1924; through their participation in charitable and social organizations of Spanish character as well as in those developed in support of institutions oriented to the study, preservation and dissemination of Sephardic culture; and other similar circumstances. Furthermore, to proof the second condition, their proof their especial relationship with Spain, they must pass a test of knowledge of the Spanish language and culture, its social reality and fundamental laws!²¹ Therefore, their "condition of Sephardic" does not give automatic right to Spanish citizenship in spite that so is how it has been presented to the press by the government in Spain.²²

Last but not least, do not forget only Spanish citizenship of origin, that is, of those born of a Spanish citizen (*ius sanguini*), or those born in Spain and nationalized Spanish (*ius soli*) are not reversible. Spanish citizenship acquired either by residence or by naturalization can be lost. Nothing is said in this Act that this case is going to be an exception.²³ Finally, this is not a permanent law. It is limited to three from the date of

²¹ Art. 1, Act 12/2015 of 24 June on granting Spanish citizenship to the Sephardim, BOE June 25, 2015.

²² See, for example, "La condición de sefardí dará derecho automático a la nacionalidad española" (The condition of Sephardic Jew will give automatic right to Spanish citizenship), El País, November 22, 2012; also the Transcript of Press Conference of Vicepresident and Spokesman of the Government, and the Ministers of Justice and Economy, after the meeting of the Council of Ministers, Madrid, February 7, 2014.

²³ Art. 24, Act 51/1982 of July 13, amending Articles 17 to 26 of the Civil Code, BOE July 30, 1982.

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effect of this law to apply for Spanish citizenship through this Act, another similarity to the Royal Decree of 1924. The only positive and permanent aspect that will remain is the amendment of Article 23 of the Civil Code. According to this modification, the Sephardim could also hold dual citizenship.

There is no similar policy development in the case of the descendants of expelled Muslims. To date it has not been proposed any specific legislation to facilitate its juridical incorporation, and not just conceptual, to the Spanish State. This is important to understand the real reasons that inspire the nationalization of the Sephardim. From the historical point of view both categories suffered the consequences of an intolerant State with its religious minorities forcing them into exile. Repair of an injustice should include the descendants of both groups.

Why Sephardic Jews and why now?

So... why the Sephardim? In the nineteenth century, in a context of colonial and economic crisis, they served to the Spanish expansionist ambitions. They exercised the function of commercial and cultural intermediaries with the Islamic world. They were also used as a cultural weapon by pan-Hispanic nationalism. This happened thanks to the collaboration, sometimes enthusiastic, of a part of the Sephardic elites. From this derives the "special relationship with Spain", claimed by Spanish diplomats during World War II, from their role as economic or cultural intermediaries.²⁴ The reason for the deployment of a philosephardic policy was not the "Spanish origin" of their ancestors, unjustly and cruelly expelled. Because if this was the main reason, the reparation of an injustice, nationalizations wouldn't have benefited only the Sephardic elites and sooner or later they would have been extended to the descendants of Muslims, whose ancestors were also brutally expelled from their homeland, Spain.

However, although the underlying reasons are political, as an instrument of foreign policy, ethnicity is important because it is the legitimizing argument. It glorifies the

²⁴ The Jews had already served as intermediaries between the north and south of the two shores of the Mediterranean since before their expulsion from the Crown of Castile and Aragon in 1492, but this role becomes institutionalised and intensifies with the expansion of the system of consular protection (see, for example, Martín Mata Corrales and Ojeda 2013).

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Spanish national identity while make invisible the Sephardic identities. Sephardim are culturally defined as "Spanish", because they speak "our" language and have "our" sense of belonging. It turns out that, in addition, by this logic the Sephardim have always loved Spain! The expressions "Sephardim" or "Spaniards who resisted stop being it" are used synonymously.²⁵ Nevertheless, at present, unlike in the nineteenth and early twentieth century, the idea of ambivalence that defined the Sephardim as a cultural mix of "Spanish" and "Jews", it does not seem so evident. Now "Sephardic" apparently becomes directly equivalent of "Spanish". Thus, this Act is full of pan-Hispanic cultural logic and ethnocentrism. It is the same logic that guides the nationalization of Hispanic-Americans and Philippines, as well as Brazilians, Portuguese and Andorrans in Spain. Yes, Brazilians, Portuguese and Andorrans are also considered "next" culturally. In all cases the potential national assimilation is the legitimizing argument. A good historical example of this is the Franco decree of January 1951. In 1940, the francoist government prohibited the Spanish diplomats to marriage women who were not Spanish. Only were accepted as an exception Hispanic-American and Philippine women. The breach of this rule meant degradation and even expulsion from the diplomatic career.²⁶ In 1951, a new decree-law also admitted marriage with Portuguese and Brazilians. According to this decree-law, these women "because of religion, culture, race and feelings" are closely linked to Spain.²⁷ The cultural proximity of the Sephardim was not good enough then unlike now.

All this helps us understand the logic behind the current law. The Sephardim, far from being compensated from a historical injustice, in fact they are being rewarded for their cultural allegiance. Obviously, this is a very biased and ethnocentric reading of the alleged loyalty:

“Sepharad’s sons maintained a flow of nostalgia immune to the evolution of languages and generations... In the language of their ancestors they mimicked prayers and recipes,

²⁵ Act 12/2015 of 24 June on the granting Spanish citizenship to the Sephardim, BOE June 25, 2015.

²⁶ "Since the publication of this Law, the diplomatic and consular officer who marries a foreigner will be decommissioned in his corps and rang, except for the case in question of Hispanic-American or Filipino," Law that establishes the minimum time in Spain of officials of the diplomatic corps and their expulsion from it in the case of marrying a foreign woman of November 23, 1940, BOE December 1, 1940.

²⁷ Decree-Law of 3 January 1951 on marriage of diplomatic officials with Portuguese or Brazilian women, BOE January 5, 1951.

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games and romances. They kept the uses, respected the names that so often invoked the last of their origin.”²⁸

“... there was a historical debt consisting of enabling those who have always wanted to be Spaniards, who have taken, wherever they lived, whatever it said their passport, our language, our sense of belonging ...”²⁹

Moreover, without rancour, says the Spanish legislator, “[they] accepted ... the silence of Spain rocked into oblivion.”³⁰ Not only are phrases loaded of ethnocentrism, also indicate what it is expected from the Sephardim who wish to obtain Spanish citizenship: cultural assimilation and political appreciation.

Finally, it remains to ask why now? The processing of this bill comes at the initiative of the Federation of Jewish Communities in Spain. Its president, Isaac Cherub Caro, says that they asked the then Minister of Justice, Alberto Ruiz Gallardon, the approval of a law that symbolically revoke the Edict of Expulsion of 1492 and that facilitate access to citizenship to the Sephardic Jews, particularly those who live in countries where their safety could be in danger. The result, no doubt, is far from this request.

Why the conservatives in government accepted to course this law? In the press has sounded the following hypothesis: that at the time of the current economic crisis the Sephardic Jews are again perceived as an instrument for economic growth; or that what is intended by this law is to compensate Israel for the Spanish support to Palestine in the United Nations, among others.³¹ On the one hand, when the preparation of the law was announce the economic hypothesis was feasible, but it was not definitely approve until the middle of 2015, when it seems that Spain begins to emerge from the crisis. On the other hand, the proposal coincided with the vote for the Palestinians to pass from "entity" to observer "State" in the United Nations. Spain voted in favour. However, a large majority of countries did, so Israel had many States with whom to be angry: 193

²⁸ Act 12/2015 of 24 June on the granting Spanish citizenship to the Sephardim, BOE June 25, 2015.

²⁹ Transcript of Press Conference of Vicepresident and Spokesman of the Government, and the Ministers of Justice and Economy, after the meeting of the Council of Ministers, February 11, 2014.

³⁰ Act 12/2015 of 24 June on the granting Spanish citizenship to the Sephardim, BOE June 25, 2015.

³¹ Sandra Lafuente, “Por qué España les quiere dar ciudadanía a los judíos sefardíes”, *BBC Mundo*, April 8, 2014.

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countries voted in favour, 41 abstained and nine voted against.³² It was also rumoured that in the current context with the threat of secession of Catalonia, the Spanish State is again resorting to the alleged Hispanity of the Sephardic Jews. This is not new either. The doctor and Senator Angel Pulido, who advocated for the approach of the Spanish State to the Sephardim, wrote that he felt closer to a Sephardic Jew than to a Catalan, after a trip to Cardona, Catalan town inlands, where he realized he could not understand what Catalan people were saying, differently from when he listened to a Sephardic Jew (Pulido Fernández 1905). Another hypothesis is that the Spanish government finally acceded to a historical claim of the Federation of Jewish Communities in Spain, even if the final law is far from what the Spanish Jewish Federation expected. However, the Sephardic Jews are probably the foreigners most favoured by naturalization processes! This Act may have a symbolic value, but it is nothing new. Neither does it provide any significant advance if we exclude the modification of the Civil Code which will allow Sephardic Jews be eligible for dual citizenship. Another different thing would be if the Sephardim were given with this law the option to apply for Spanish citizenship indefinitely, but this is not the case.

In my view, this legislative measure is another diplomatic gesture to the Sephardic communities and Israel as part of a long Spanish tradition of approaching (and using) the Sephardim, without accepting them fully. But not only are the representatives of the Sephardic Jews in Spain unhappy, the Spanish government manage to make angry, once again, to a part of the elite of the descendants of the expelled Muslims.³³ According to the Treaty of Granada, signed between the Catholic Monarchs and the last Muslim king of Spain, Boabdil, the Muslims from the former kingdom of Granada would be subjects of the Catholic monarchs "now and at all times forever."³⁴

Tentative conclusions

³² Resolution 67/19 of the United Nations General Assembly, 29 November 2012; Document vote 0408, 29/11/2012.

³³ See, for example, the open letters of Andalusian origin Moroccan historian Ibn Mohammed Hakim Azzuz to the King of Spain in 2001 and 2005.

³⁴ Treaty of Granada between Boabdil and the Catholic Monarchs, November 25, 1491.

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In this text we have seen the historical, political and ideological long duration background in which the present Act to nationalize Sephardic Jews of June 2015 has to be placed. Nineteenth-century liberal right, alluding to the cultural proximity of the Sephardim, thought they could contribute to the “regeneration” of Spain, not only from an economic point of view but also from the standpoint of international political prestige. This vision of the Sephardim was adopted soon after by State institutions, mainly the Ministry of Foreign Affairs. It has been one of the pillars of Spanish foreign policy since the first quarter of the twentieth century. Thus, we have seen the relationship between political and identity logics in the legislative arena of what Castells has called legitimizing identities. This concept perfectly illustrates the created notion of "Sephardic Jew" in contemporary Spain. An “identity” that does not emanate from the cultural group to which it is addressed, but it is promoted by the dominant political and intellectual elite. It is a constructed not a primordial identity, albeit presented in those essentialist terms. Its aim was and is to serve Spanish interests. It corresponds to the logic of the *raison d'état* of the Spanish hegemonic institutions, and not to the aspirations of the Sephardim. The rationale for these ethnicist policies is to serve the interests of the State. Neither now or in the nineteenth century was intended to end or compensate for a historical injustice.

Neither is the real reason for this Act to provide facilities for the naturalization of the Sephardim. In fact, they are probably already the category of foreigners most benefited by the extraordinary process for granting Spanish citizenship through naturalization. The only visible and permanent improvement is the recognition also for them of dual nationality. Thus they are equated to Latin Americans, Philippines, Equatorial Guineans, Portuguese and Andorrans. Furthermore, the specification of the "exceptional circumstances" that must exist in the case of the Sephardim to grant them Spanish citizenship, in fact introduces a rigid and strict principle of implementation which will lead to a restriction on the number of persons which qualify now. Because being Sephardim is not enough, they have to demonstrate their "special relationship with Spain". That is, they have to know Spanish language and culture. Certainly part of the Sephardic Diaspora does not meet the second condition that, in fact, what is asking from them is their cultural assimilation prior to the process of naturalization. This time the warning from Mugica Herzog, that Sephardic identities have followed different paths to

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that sought by the Spanish legislator, which do not necessarily pass either by surnames or by language or culture, was not considered.

Therefore it can be concluded that this Act does not end a historical injustice and does not provide straightforward access to the Spanish citizenship, on the contrary, it restricts it with new cultural requirements. Moreover of establishing new comparative grievance with the other expelled from Spanish soil, the Muslims.

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