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# The Spanish Transition Forty Years Later:

## DEMOCRACY, DEVOLUTION AND PLURALISM

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### I. INTRODUCTION

Spain's transition to democracy after General Francisco Franco's death in 1975 is widely considered a success story and is sometimes presented as a model for other transitions from authoritarian regimes, particularly in Latin America. Four decades after the transition the main leaders of the process are now deceased or retired from politics, and within Spain, there is growing public demand for a fresh assessment of its merits. In Spain, as a way out of authoritarian rule, the Spanish experience is still overwhelmingly perceived as a positive example; however, when the stability of its territorial system and the type of societal values upon which a pluralist political culture can be sustained are considered the views become more critical.

In its simplest version, pluralism implies valuing social diversity as a democratic asset, and not as a hindrance to be managed or tackled. In

Spain, the transition from authoritarian rule to democracy involved more than the restoration of standard political liberties and the rule of law. The new democratic system also had to facilitate the cohabitation of multiple ethno-territorial identities within a single political framework, while also secularizing the state and implementing some form of transitional justice for the victims of the Civil War and the dictatorship.<sup>1</sup>

The territorial model that was finally devised—a system of regional autonomy with some degree of asymmetry—was somewhat improvised and was the result of brisk negotiations among heterogeneous political groups. Framed in very flexible terms, the resulting model was nonetheless able to drive a political cycle that has lasted for over three decades. On the negative side, the very same elements that distinguished this territorial model—that is, inter-regional competition and the dynamics of nationalist politics—have prevented its eventual stabilization. The ambiguity on the limits of the devolution process, together with its procedural

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openness—which were at one point praised as signs of institutional resilience and political capacity to compromise—are now often perceived as structural handicaps. The same can be said about other decisions made during the transition—for instance, entrenching the privileges of the Catholic Church or avoiding the politics of memory. The option of closure and forgiveness for the crimes of the Civil War and the dictatorship made it easier for the new political elites to start with a clean slate, but historical oblivion has taken a heavy toll on Spanish civic culture. Without effective normative references, counteracting the existing hegemony of traditionalist Catholic values, social clientelism and political corruption has proven difficult.

The reasons for these choices and the subsequent loss of political functionality are various. Political realism offers one explanation: the transition rendered the best political result it could achieve without risking an authoritarian backlash considering the balance of forces in the 1970s, when the apparatus of the dictatorship was still intact and the opposition was weak. The dynamics of social change suggests another explanation: younger generations severely hit by the 2008 recession are less inclined to accept as legitimate some of the accommodations made before they were born. The social reverberations of the economic downturn—including staggering cases of corruption and increased protest and mobilization—have produced a generalized sense of malaise which, in turn, has undermined the basic pillars of the country, that is, the territorial structure, the welfare-state social model and the perceived roles of political parties, the judiciary and the monarchy.

This overall erosion of legitimacy has resulted in growing concerns about the capacity of the institutional system to respond to such combinations of economic, social and political pressures. This changing social mindset has also begun to alter the received narrative of the transition, as well as the political consensus upon which it was based. There are now an increasing number of voices questioning the legacy of this consensus and blaming its original limitations for current social ailments such as the lack of recognition of the former regime’s victims, the non-accountability and self-reproductive tendencies of political elites, or the inability to stabilize the territorial model. According to these critical voices, such shortcomings reveal the incapacity of the Spanish democracy to break with the ingrained interests and values inherited from Francoism which were incorporated into the political culture of the country. As a result of these forces and reflections, forty years later, Spain is experiencing a critical reassessment of the drivers of its democracy with increasing talk about the need for a “second transition”.

This change case identifies the original challenges faced by the Spanish transition to democracy, the factors that favoured pluralist responses to them—with a particular emphasis on their territorial dimension—and the long-term or unintended consequences of some of the options chosen. On the whole, the Spanish transition has been a success story, but only in a limited or provisional sense. On the one hand, compared to the four civil wars and countless uprisings, coups and mutinies that the country experienced during the preceding two centuries, the democratic system installed

since 1977 has produced the longest period of political freedom and the rule of law in Spain's modern history. Up to 2008, decentralization also resulted in a more even distribution of the benefits of sustained economic growth, as well as the cultural recovery and institutionalization of regional vernaculars. On the other hand, some of the country's old territorial tensions have not been resolved. The years of transition witnessed a ruthless increase in terrorist violence originating in the Basque Country that was only curbed thirty years later. While the situation in this region seems to have settled, a more powerful independence movement has emerged in Catalonia as the result of a failed and profoundly controversial territorial reform and bitterly felt socio-economic deterioration. Catalan nationalism portrays the regional consequences of the 2008 economic crisis as Spanish "fiscal plundering." Although economic hardship and the social frustrations attached to it have fed centrifugal pressures in the regions, within Spain as a whole further devolution does not enjoy the same degree of support it had forty years ago.

The decision not to look backward at the crimes of the past, or to effect some form of symbolic reparation for the victims of the Civil War and the dictatorship, has also blurred the historical credentials of Spanish democracy, in part by giving leeway to regressive theories about the "beneficial" effects of Franco's regime for having allegedly created the pre-conditions of a successful transition. This lack of collective memory is reflected in the recurrent "cultural wars" that emerge in the political arena. The secularization of the state, the extension of the public educational system and the recognition of civil rights such as divorce, women's

equality and reproductive rights were integral parts of the political agenda of the transition. However, the institutional privileges of the Catholic Church were maintained, thereby allowing it to assume a role as a main interlocutor with the government on educational and moral issues, such as in recent debates on abortion, same-sex marriage and the introduction of civic education in the school syllabus. Similarly, voters often exhibit tolerance for the pervasive corruption that has seized the political system (and for which devolution offered a fertile ground), regularly re-electing politicians who are under suspicion—although this mindset seems to have receded with the current economic crisis. Nonetheless, many socially-ingrained obstacles still thwart the struggle against political corruption.

## II. ORIGINS AND RESPONSES TO DIVERSITY IN MODERN SPAIN

Although part of Southern Europe's "third wave" of democratization in the mid-1970s,<sup>2</sup> the Spanish transition had its own tempo and characteristics. Although it took place after a bloody civil war and almost forty years of dictatorship, it was not the result of a political revolution or the collapse of an authoritarian regime, as in Portugal or Greece. Instead, it was carried out through a process of negotiated political reform with the opposition. The transitional process faced a combination of challenges, among them drafting a democratic constitution; resolving Spain's membership in the Western structure of international relations, mainly

the European Community and NATO; creating a modern welfare state and a more equitable society; and instituting a territorial model that met the expectations of Catalan and Basque nationalists without triggering the reaction of conservative forces such as the army. Some related issues, such as the separation of church and state and the secularization of the educational and civil rights system, had been simmering since the nineteenth century due to the historical weakness of the liberal state against the combined influence of the social oligarchy and the Catholic Church. Intense class conflict and territorial tensions with Catalonia and the Basque region were by-products of both Spain's late and unequal industrialization and the imbalance created by a weak political centre and an economically stronger periphery. These cleavages were exacerbated in the twentieth century by the crisis of the monarchy, the instability of the Second Republic (1931–39), the Civil War (1936–39) and Franco's long dictatorship (1939–75). In addition to these pressures, the restoration of democracy in the 1970s was challenged by an escalating terrorist offensive led by Euskadi Ta Askatasuna (ETA), a movement for Basque independence, and by the need for urgent economic reforms precipitated by the 1973 international oil crisis.

By itself, the variety of languages in Spain does not explain the existence or character of the country's regional or territorial tensions. Cultural differences have to be considered in combination with the political transformations and the social makeup of the different regions. Historically, Basque, Catalan or Galician polities have never existed that replicate the imagined nationalist territories of *Euskal Herria* (literally “the land of the Basque people”),

which comprises the current Basque Country and Navarre in Spain and the department of the Atlantic Pyrenees in France, or of *Països Catalans* (“Catalan Countries”), which would include Catalonia, Valencia and the Balearic Islands in Spain and the department of the Eastern Pyrenees in France. What we find instead is a changing variety of wider political structures originally based on dynastic kinship and feudal rights. Variants of the Catalan language are spoken in Valencia, the Balearic Islands and southern France, but they have never inspired an effective pan-Catalanist movement. The same is true for the Basque language, which is also spoken in the north of Navarre and on the French side of the border. Galician has its linguistic nest in the northwest of the Peninsula, with its cultural affinity to Portugal, but its brand of nationalism has been slower and more diluted than the others. The Islamic heritage of Andalusia persists more as an architectural patrimony than a living culture.

Spain emerged as a modern nation-state out of a multi-ethnic empire legitimized by Catholicism and dynastic kinship without the implied institutional separation of secular and religious spheres, or the cultural and political homogenization of the country. The liberal state was never strong enough to impose a uniform, French-styled national culture. Nineteenth-century political elites distrusted the masses and displayed little interest in public education; at the same time, the fiscal base of the state was too weak and the influence of the Catholic Church too strong to organize an efficient and secular public school system. Besides, centrifugal tensions were not always synonymous with ethnic cleavages. The federal system attempted by the short-lived First Republic (1873–74), for example,

rapidly disintegrated into a general swirl of cantonal movements led by radical republicans. The fiercest resistance to the establishment of a liberal constitutional system came from the regions but for different reasons. Some had either lost or preserved some degree of autonomy from the Old Regime. Others had experienced the social shock of industrialization first. Two—Catalonia and the Basque provinces—had had retained a distinctive language.

Modern Basque and Catalan nationalisms emerged shortly after the military defeat of Carlism, a clerical, reactionary movement against liberalism, in 1876. Although internally complex and dissimilar in their ideological articulation and political objectives—the linguistic brand of political Catalanism contrasts with the racialist bias of early Basque nationalism—both shared some common features, such as a rural social base, a connection to traditional Catholic values, a romantic longing for a lost “golden age” and the defence of their cultural and political heritage. Originally, Catalanism was part of a broader “regenerationist” movement that seized the shaken self-confidence of Spanish elites after the Spanish-American War in 1898, which resulted in the loss of Spain’s last colonies in the Caribbean and the Pacific. This soul-searching was more intellectual than political and produced widely different diagnoses of the nation’s ailments, but a revival of regionalism and demands for decentralization were an integral part of it. Some elites from the periphery of the country, particularly in Catalonia, concluded that Spain’s prospect for the regeneration was better if the process was led from the most developed and ambitious regions, rather than from its decadent core. Two main parties

came to wield the banner of regional nationalism in the Basque Country and Catalonia: the Basque Nationalist Party and the Regionalist League, founded in 1895 and 1901 respectively. Whereas the first aimed at independence from Spain, the second sought the restoration of lost Catalan institutions. Eventually, some groups united around the *Estat Catalá* (Catalan State) party after concluding that the cultural, social and economic plenitude of Catalonia would never be achieved as long as the region remained a part of Spain. The successful struggle of Ireland for independence in 1921 became a mirror for both nationalist movements. In both cases, the liquidation of the oligarchic system—established after the restoration of the Bourbon dynasty in 1874—was considered a prerequisite for any solution to the “national question” in Spain.

The Second Republic (1931–39) was the first serious pluralist response to the territorial articulation of the country in the twentieth century. This republic was not inspired by federalist principles, but by the idea of creating a “comprehensive state” (*Estado integral*) with autonomous municipalities and regions. Public intellectuals who entered the political arena, such as José Ortega y Gasset and Manuel Azaña, helped to disseminate the idea of regional autonomy as a way to pull the country out of its historical stagnation. The Catalan Statute of Autonomy—the only such statute to be passed before the Civil War—was adopted by the Spanish parliament in 1932. The Basque Statute was proclaimed in October 1936, by which time the war was already underway. In contrast, the Statute of Autonomy for Galicia, was presented to the Parliament in July 1936 but it was never processed as Galicia fell on the insurreccional

side. Aided by Nazi Germany and Fascist Italy and sanctioned by the Catholic Church, a coalition of the military and an array of conservative forces won the Civil War, resulting in the suppression of the autonomy projects and the imposition of a strongly centralized, authoritarian and nationalistic regime. In 1947, Spain was again proclaimed a monarchy with General Franco appointed as regent for life until the Spanish throne was occupied.

### III. THE SPANISH TRANSITION FROM AUTHORITARIAN RULE

Banned from the new international order that issued from the Second World War, Franco's dictatorship initially survived through economic autarky amidst general impoverishment and frenzied political repression. On the external scene, it developed a substitute diplomacy based on a strategic alliance with the Vatican and some key Latin American countries. The regime granted the Catholic Church the type of autonomy and political protection that it had been seeking for over a century, handing over to it the educational system, part of the mass media and the control of censorship. In exchange, the regime obtained international support and a convenient design of the Spanish Church from the Vatican. This peculiar combination of militarism, authoritarian nationalism and Catholic traditionalism is usually referred to as "National-Catholicism" and gave Franco's regime its particular brand.

Within the context created by the Cold War, Franco's Spain gained new geostrategic value for the United States and its Western allies. Agreements for economic and military cooperation signed by Spain and the United States in 1953, and the visit of President Dwight Eisenhower to Spain in 1959, marked a new era of comparative openness for the regime. Indeed, beginning in the 1960s, Franco's dictatorship began to define itself as an "organic democracy", that is, as a corporatist system built upon the institutional pillars of family, municipality and state-controlled trade unions. This innovation led some social scientists to typify Spain as an example of an "authoritarian regime" rather than a totalitarian state.<sup>3</sup> Although incorporation into the European Common Market was blocked until the democratic period, the last phase of Franco's long dictatorship was accompanied by swift economic development. Domestically, shifting balances between the regime's different "political families" also defined this period. On one side were the intransigent Francoists, to be found mainly in the military, war veterans' organizations and the security apparatus. The philo-fascist and nationalistic *Falange*, the only party officially permitted, was another recognizable group, but by the 1960s it had lost much of its original clout and had become instead a large, stagnant bureaucracy controlling the official trade unions system. There was also a small, languishing monarchical lobby that advocated Don Juan de Borbón, the son of the last Spanish king, as Franco's successor. Another group of technocratic modernizers, under the umbrella of the Catholic organization *Opus Dei*, led the process of economic modernization under the protection of Admiral Luis Carrero Blanco, Franco's second in command. However, the economic modernization of

the regime did not produce political liberalization. On the contrary, the technocrats of the *Opus Dei* sought institutional perpetuation. Only some rival groups, stemming from the Falangist bureaucracy, encouraged a limited opening of popular political participation, but under strict state control.

The prosperity of the 1960s created a new urban middle class in Spain that valued social stability above everything and provided a diffuse base of support for the regime, which some social scientists have called “sociological Francoism.”<sup>4</sup> At the same time, industrial development created a new working class, while massive emigration and a growing inflow of tourists offered Spaniards opportunities to compare their country’s standing with the rest of Western Europe. Economic growth, social change and cultural openings brought some turbulence, including the first miners’ strikes in northern Spain, the infiltration of the official trade unions system by left-wing organizers, the radicalization of the student movement and the erosion of the alliance between the Catholic Church and the regime. In this context, the proclamation in 1969 of Juan Carlos de Borbón y Borbón as Prince of Spain and the future successor of Franco as head of the state and as a king, was viewed as a triumph of the regime’s most conservative sectors. Franco and Don Juan de Borbón, the exiled father of Juan Carlos who lived in Portugal, agreed in 1948 that the son would be sent to Spain to receive an education under the regime’s tutelage, but at the time no further details were decided about his future. Franco’s decision to name Juan Carlos his successor caused a breach in the legitimate Bourbon dynasty’s chain of succession that resulted in a rift between father and son.

Cultural and political activism with a nationalist tinge also made a comeback in Catalonia and the Basque Country in the 1960s. Whereas Catalanism generally followed a peaceful strategy, political violence broke out in the Basque region. In 1960, a bomb at the train station in San Sebastian produced the first victim of the new terrorist group ETA (the acronym for “Basque Homeland and Freedom”). In 1967, a policeman was killed and a year later the organization committed its first targeted assassination, killing an agent of Franco’s secret police. The reaction of the regime was fierce. The recurrent declaration of the state of emergency reduced the regime’s already feeble legal guarantees, hardened repression and paralyzed the possibility of widened political openings. ETA initiated an offensive based on an escalating “action-reaction” principle that was supposed to climax in a massive insurrection by Basque society. In December 1973, ETA killed Admiral Carrero Blanco, the head of government, in an elaborate bomb attack in Madrid, thus leaving the ultraconservative sector of Francoism without a leader. This same year, a new radical left-wing group, the Revolutionary Antifascist Patriotic Front (FRAP), joined the violent front against the dictatorship. In response, the government arrested scores of opposition militants, court-martialed a dozen of them and, on 27 September 1975, executed three members of FRAP and two of ETA. These actions resulted in international condemnation, ranging from the withdrawal of many ambassadors from Spain to censure at the United Nations as well as demonstrations in many foreign cities, calls for economic boycott, and the burning of the Spanish embassy in Lisbon. The regime reacted by orchestrating a massive demonstration in support of

a senile-looking Franco on 1 October, the very same day that a new and obscure terrorist group, the First of October Anti-Fascist Resistance Group (GRAPO), killed four policemen in Madrid. This was the last time that Franco was seen in public. A few days later he fell into a coma and, after much agony, died on 20 November 1975 at age 82.

After the Republican defeat in the Civil War and the crushing of the last remaining guerrilla activity in the 1950s, internal political opposition to Franco's dictatorship was very weak. Clandestine anarchist, communist and socialist cells were repeatedly infiltrated and dismantled by the police and their leaders often executed. In the 1960s, some internal dissidents made tenuous contact with external liberal, Christian-democratic and monarchical groups. The Spanish Communist Party, which distanced itself from the Soviet orthodoxy, advocated a program of "national reconciliation" and was quite successful in penetrating the official union movement and making its influence felt in the student movement. By the time of Franco's death in 1975, it was by far the best organized and disciplined political organization inside the country. By contrast, the Socialist Workers Party (PSOE) suffered a split between internal clandestine groups and the party's exiled leadership that would only be overcome at the party congress in Suresnes, France, in 1974. At this meeting, a new group from inside the country—which included future Prime Minister Felipe González—took control and the newly mended party issued a political declaration favouring "democratic rupture" with the Franco regime and the creation of a federal republic. Decentralization and democratic transition went hand in hand, with the resolution also supporting

recognition of the "right to self-determination for the Iberian nationalities," so that each of them could "freely determine its relations with the other peoples that constitute the Spanish state."<sup>5</sup>

During the last years of the Franco regime, social unrest and opposition to the regime mounted. Countless demonstrations, strikes, sit-ins, occupations of public buildings, terrorist attacks, police repression and right-wing vigilantism created a politically-charged atmosphere. Communist groups were particularly active in the grassroots movements and in the working-class districts of the big cities. In the industrial northern region, the Workers' Commissions (CCOO), a new clandestine union pushed by Catholic and Communist militants, enjoyed considerable support. In the Basque Country and in Catalonia, nationalist mobilization gained a prominent role. The Catholic Church also took a more critical stance towards the regime. Catholic sympathy for Basque nationalism led to a serious diplomatic incident with the Vatican in 1974. The great unknown was how the bulk of Spanish society would react after the death of the dictator. Prolonging Francoism without Franco—as Marcelo Caetano had done with the authoritarian *Estado Novo* in Portugal after dictator Antonio Salazar retired—seemed an option without much future. The main political actors faced a political dilemma after the death of the dictator: either a political break with the regime or a negotiated reform process.

A few months after his accession to the throne, King Juan Carlos I appointed a new head of government, Adolfo Suárez—until then, a rather unremarkable bureaucrat within the Falangist

state apparatus and the so-called “National Movement” and a former director of the public broadcasting system. This was an unexpected move by the King, since no great reform initiative was expected from Suárez considering his background. In the meanwhile, the main opposition forces had coalesced into a self-declared “Platform of Democratic Organizations” in order to negotiate the preconditions for a democratic process with the new government. Their conditions included political amnesty, legalization of all political parties, dissolution of the political police and abrogation of their emergency powers, trade union freedom, the return of the exiles, a new constituent assembly, and recognition of the right to self-government by the country’s different nationalities and regions. In less than a year, Premier Suárez steered the Law for Political Reform through the Francoist legislature before its dissolution and held a referendum on it. He legalized all political parties, including the Communist Party, organized an electoral coalition for his own political purposes (the Union of the Democratic Centre) and called for constituent assembly elections. The opposition, with its many and divergent interests, was unable to maintain a united front and ended up bargaining separately with the government. In the end, there was no “democratic rupture” with the past, but a negotiated process of gradual reforms, during which appeals to “consensus” and to “learning from the past” became mottos that dominated the political discourse.

## IV. THE STRUGGLES FOR PLURALISM: THE TERRITORIAL QUESTION

The constituent assembly elections of 1977 produced the first political mapping of Spanish society in almost forty years. The Centre party of Premier Suárez was the winning force followed by the Socialist Workers Party, with the Communist Party and the right-wing People’s Alliance lagging far behind. The Basque and Catalan nationalist parties obtained good results in their respective regions. The main purpose of the elections was to produce a constitution that could enjoy the widest possible consensus. The parliamentary commission in charge of its drafting was made up of representatives from the main political forces, including the Catalanist, but it excluded the Basque Nationalist Party, an absence that would have long-lasting consequences, since it called for abstention in the subsequent referendum on the Constitution.

The Preliminary Part of the Constitution of 1978 proclaims that it is “based on the indissoluble unity of the Spanish nation, the common and indivisible country of all Spaniards; it recognizes and guarantees the right to autonomy of the nationalities and regions of which it is composed, and the solidarity amongst them all.” Territorial self-government was to be articulated in the form of “autonomous communities”. Responding to the political longings of Catalonia and the Basque Country was the original purpose, but during the constitutional negotiations new territorial ambitions emerged. One possibility was to grant statutory self-government to Catalonia, the Basque

Country and Galicia, while allowing some degree of decentralization for the rest of the provinces. The ambitions of the most populated region in the country, Andalusia, derailed this option. The final solution was “coffee for everyone”—that is, the generalization of autonomy—as the Minister for the Regions famously described it.

In this way, the differential features of the Catalan and Basque regions would be toned down against the background of general devolution, while attending to the legitimate territorial claims of other regions. The Constitution did not detail the number or names of such territorial units. Instead, it opened two procedural options for becoming an autonomous community: a “fast track” with higher administrative powers for those regions with a “historic” status as an autonomous region, such as those that had achieved or planned a statute of autonomy during the Second Republic (Catalonia, the Basque Country and Galicia, plus the last-minute addition of Andalusia); and a “slow track” with an initially lower standard of self-government for the rest of the provinces. In the end, 17 communities were created, but over time, the political effect of these initial procedural distinctions was blurred, as the Constitution included additional routes for the devolution of power from the central government to the regions. Accordingly, the slow track communities have systematically tried to match the competencies obtained by the historic ones.

The territorial structuring of the country proved to be one of the democratic transition’s main destabilizing issues and it has resurfaced once again as a major challenge in the recent years.

Delaying or uncoupling decentralization from the democratization process was never an option, as regional actors immediately used political liberties to demand territorial rights. The level of violence created by ETA as well as leftist and right-wing paramilitary groups continued to increase during these transitional years. Although the counting differs depending on the sources, around 600 persons were killed for political reasons in Spain between 1975 and 1983, well over half of them by Basque terrorism.<sup>6</sup> By harassing the army and the police, ETA tried to instigate a coup that would derail the transition and, allegedly, pave the way for a revolutionary process. The new territorial outline devised in the Constitution was not popular with the military either, which had been entrusted by Franco with the safeguarding of national unity. Sabre rattling was perceptible. Several military conspiracies were dismantled by the secret services, but the legal consequences were remarkably lenient. Finally, on 23 February 1981, a detachment of the militarized police headed by a well-known conspirator stormed the Parliament as a new prime minister was voted in. At the same time, General Milans del Bosch occupied Valencia, the third largest city in the country, aided by an armoured division. Lacking the prior support of the army’s key commanders, the coup was not well planned; instead, it relied on the chain effect such a spectacular raid might have upon the discontented military ranks. Many officers waited to see how events would develop. The King’s speech, broadcast on television that same night, blocked the spread of the rebellion. The main conspirators were tried and jailed. In spite of this, the political atmosphere remained disturbed.

A collateral result of the failed coup was an agreement by the Centre and Socialist parties to roll back the autonomy process partially by means of a “Law of Harmonization”, which the Basque and Catalan regional governments successfully challenged in the Constitutional Court. In the long-term, the devolution process in Spain has depended more on political tempo than on constitutional regulations. Devolution has resulted from random negotiations between the central government and the main Catalan and Basque nationalist parties whenever a parliamentary majority was needed in Madrid. These parties, favoured by an electoral system that grants them some degree of over-representation, have traditionally functioned as hinge parties in the central government. Their political cooperation was regularly rewarded by the central government with a new turn of the screw in the devolution process.

Even if there is no canonical definition of federalism in Spain, the Spanish regime is a federal one in almost everything but name. The autonomous communities enjoy a higher degree of self-government than the units of many nominally federal systems. An absolute majority of the national Parliament must approve regional statutes of autonomy, which, in turn, must comply with constitutional norms. In general, autonomous communities have a pragmatic character, with no closed assignment of competencies and no entitlement to assume residual powers; however, in some areas, they have functional priority over the competencies of the national government. In this sense, the territorial system has been open-ended and prone to both hosting and generating a wide range of asymmetrical features, such as different

regional language policies and, most remarkably, the fiscal autonomy of the Basque Country and Navarre, a status which is now sought by Catalonia.

However, the seams split when reform of the Catalan statute of autonomy was thwarted in 2006. In an attempt to displace the main Catalan nationalist party (Democratic Convergence of Catalonia) from over two decades of regional office, in 2003, the Catalan branch of the PSOE forged a tripartite coalition with a minority sovereignist party (Republican Left of Catalonia) and the regional ex-communist party. Since 1979, the reform and expansion of the old statute had been the main feature of their electoral program. Then in the opposition, José Luis Rodríguez Zapatero, the leader of the PSOE, welcomed this coalition, declaring that if he won the seat of prime minister in the upcoming national elections he would respect the statute passed by the Parliament of Catalonia within a new “plural Spain”. In March 2004, he did win following a swift electoral shift provoked by the Madrid train attacks and the discrediting of the conservative government for initially trying to conceal the jihadist connection and its presumed relation to the highly unpopular invasion of Iraq. The party formerly holding office in Catalonia, the DCC, then joined the efforts of the new tripartite government to amend the old statute of autonomy, thus initiating such a swelling process of regional inter-party competition, swinging alliances and escalating demands that the central government feared it was running out of control. The conservative opposition charged it was an attempt toward “breaking up Spain.”

After a difficult negotiation, the Catalan parliament

voted on the new statute of autonomy in 2005 and submitted it to the Constitutional Commission in the Spanish parliament, which trimmed its most debatable sections. In March 2006, the Parliament finally voted on the revised draft of the statute. It was opposed only by the conservative People's Party (PP) and the Republican Left of Catalonia, whose members, though in support of the statute, objected to its last-minute trimming-down. On 18 June, Catalonia voted on the statute in a referendum which produced a modest turnout with high support. Scarcely one month later, the Peoples Party submitted a complaint to the Constitutional Court touching on 114 out of 223 sections of the new Catalan statute. During the four years the Court took to make its decision, the PP attempted several backstage manoeuvres to alter the composition and internal balance of the tribunal. When the decision was issued, it declared 14 sections of the statute unconstitutional and revised 27 more, pronouncing the designation of Catalonia as a "nation" as "having no juridical consequences."<sup>7</sup> The sections deemed unconstitutional dealt with the preferential status of the Catalan language (judged as a source of inequality); the shielding of the decisions taken by the Catalan Council of Statutory Guarantees (a quasi-judicial body for statutory interpretation); the creation of an independent regional branch of the judiciary; the exclusive legislative competence of the regional government in matters shared with the state; and the unilateral limitation of Catalonia's contribution to state expenses.

Although public opinion was divided along political lines, the main national media concluded the decision had left the basic structure of the statute untouched, while limiting its most ambitious

aspirations in respect to fiscal and judicial autonomy.<sup>8</sup> However, the blow was political: a court whose reputation by then was seriously damaged had revised a charter that had been successively endorsed in the regional and the national parliaments and in a referendum. The decision created enormous discontent in Catalonia, with a massive demonstration organized in Barcelona the day after its announcement under a defiant banner that read, "We are a nation. We decide." The Catalan impasse has taken a dramatic turn lately, with an unprecedented upsurge of sovereignism and the election in 2015 of a regional coalition government that has promised a swift, but utterly uncertain, accession to independence.

With the outbreak of the deepest economic crisis in the history of contemporary Spain, combined with massive cutbacks in public spending, a cold wind blows in Madrid nowadays, chilling any further efforts toward devolution. The public administration system, with its regional arms, is widely viewed as oversized, overlapping, financially irresponsible and patronage-ridden. In conservative circles especially, it is believed that instead of stabilizing the territorial tensions, the autonomies within the system have been used by peripheral nationalisms to carry out their own nation-building processes, feeding a historical narrative of victimization and blurring any sense of belonging to a common, centuries-old polity among the younger generations. Recent state legislation on municipal and regional finances, and on the content of the educational programs, has fed what is perceived as a backlash from the centre.

## V. THE DRIVERS OF PLURALISM IN THE SPANISH TRANSITION TO DEMOCRACY

### Civil Society

During Spain's democratic transition, the fundamental issue regarding civil society was the consolidation of its autonomy and vitality vis-à-vis the nascent party system. The transition to democracy was to a substantial extent the result of civic mobilization against the dictatorship, which then became institutionalized in the political parties and the constitutional system. After the consolidation of democracy, the political character of citizens' movements diminished with associational energies redirected towards other types of issues, such as the social economy and development aid. Thirty years later, however, civil society again played a fundamental role in causes such as the ending of terrorism in the Basque Country, the Catalan sovereignist process, the movement for historical memory, and the protest against corruption and the deterioration of the democratic system. In this sense, Spanish civil society has very often forged ahead of the political system and stood against its inertial tendencies.

The upsurge of the Catalan independence movement overlapped with the end of Basque terrorism. ETA announced a definitive ceasefire in 2011, with its last lethal attack one year before. The reasons for ETA's decline are multiple. First, the Spanish police repeatedly and ever more swiftly

penetrated and dismantled its organizational structure. Second, in a long-term strategy, the judiciary enforced new laws that exposed and outlawed the terrorist organization's money laundering schemes, social collusion and political figureheads. Third, in an international scene that has come to know the devastating effects of Islamic terrorism, the phenomenon of Basque terrorism ceased to be seen as a residual conflict pushed by ethnic "freedom fighters" in a remote corner of the Iberian Peninsula. The last and most effective reason for ETA's decline was the growing strength of grassroots peace movements in the Basque Country since the 1990s, together with the slow evolution of the radical nationalistic world—with Northern Ireland providing a model—towards institutional strategies.

The Catalan experience has been very different. Catalan civil society has always been engaged in the defence of the cultural and linguistic patrimony of the region. Sport and cultural associations are traditional bearers of Catalan collective pride. The most successful and internationally known example is the Barcelona Football Club, which is "more than a club" according to its motto. Nationalistic violence was fleeting in the 1980s and, until very recently, independence was a marginal political option. The derailment of the reform of the statute of autonomy changed all of this. The National Day of Catalonia, a traditional civic celebration in Barcelona every 11 September, for years usually gathered only political authorities and some small nationalistic groups. In 2012, it turned into a massive rally in favour of independence due to the efforts of two cultural and grassroots nationalist organizations, *Òmnium Cultural* and the so-called Catalan

National Assembly. This political turn encouraged the new regional premier, Artur Mas, to support the movement openly and take the lead, with the regional broadcasting system and the administrative apparatus thrown behind the cause. From this moment on, the Catalan government co-opted the mobilization for independence, following the paths of Québec and Scotland by attempting to organize a referendum on self-determination.

The economic and financial meltdown of 2008 had other notable effects on Spanish politics and the social mobilization of civil society. The absolute majority won by conservative Prime Minister Mariano Rajoy in 2011 allowed him to apply a tough program of economic reforms and social spending cutbacks, as demanded by the European Union and international creditors. The downsizing of the Spanish economy, shrinking social and welfare rights, the curtailment of collective labour agreements with a consequent drop in salaries, and the staggering rise of unemployment and evictions coincided with the uncovering of massive cases of political corruption at all territorial and administrative levels. In 2013, according to the General Council of the Judiciary, over 1,600 cases of corruption with political undertones were being investigated in Spain, which suggests the endemic nature of the problem.<sup>9</sup> The position of Spain in the Corruption Perception Index produced by Transparency International, which ranks perceptions of countries from less to more corrupt, fell from 28 in 2008 to 40 in 2013.<sup>10</sup> The range of the scams exposed is very wide, but many are perceptibly related to the speculative bubble created by 20 years of unremitting increases in property prices. This bulge fuelled all types of influence

peddling, kickback schemes, and illegal donations related to urban zoning and the subcontracting of public works. Some of the main political parties, regionally and nationwide, have been heavily implicated in such practices. Even two members of the Royal Family have ended up in the dock, charged with illegal collection of commissions.

Within Spain, the current pervasive feeling that the political system is dysfunctional, the political class parasitical and institutional checks ineffective therefore comes as no surprise. The “*indignado*” movement that occupied downtown Madrid in May 2011 was the first sign of growing political malaise. Within three years this diffuse social movement against inequality and corruption grew into an anti-establishment political party, *Podemos*, which its opponents accuse of being populist. Leaving aside this ideological squabble, the success of *Podemos* in the 2015 elections has made it the third force in Parliament and given it control of two main cities. This result can be seen as a sign of generational change in Spanish politics but it also signals a deeper transformation. The traditional socialist/conservative bipolar system, with the mainstream Basque and Catalan nationalist parties acting as a hinge for the formation of political majorities in Madrid, seems to have come to an end. Not only has the political spectrum become wider and more varied, the sovereignist drift of the Catalan pole of the old system has removed it from country-wide alliances. These shifts will undoubtedly affect the way territorial processes are addressed in the future.

## Religion

Together with the territorial question, the public status of the Catholic Church has been a matter of discord in the history of modern Spain. The Republican Constitution of 1931 declared the separation of state and church, put an end to public subsidies to the Church, unified the school system, regulated or dissolved the religious orders and limited the right of the clergy to teach without proper academic qualifications. The public school—a matter of concern for social and political reformers since the late 19th century—became the cultural bastion of the Republic, with local priests and schoolteachers replicating the rivalry between the Catholic Church and the state as agents of socialization. In a milieu marked by social unrest and deep political divisions, anti-clericalism was a catalyst for the conflicts that eventually led to the Civil War, with priests and teachers among the most victimized groups during it.

With the Constitution of 1977, Spain again ceased to be a confessional state. Article 16.3 of the Constitution declares that, “There shall be no state religion.” However, that same section goes on to state that, “The public authorities shall take the religious beliefs of Spanish society into account and shall consequently maintain appropriate cooperation relations with the Catholic Church and the other confessions.”<sup>11</sup> With Spain’s history of violent religious conflict in mind, the purpose of this clause was to achieve a new compromise. The current regime of religious governance is sometimes branded “non-confessional” to distinguish it from a purely secular model, but there is no general agreement on the constitutional meaning of this

term or its institutional consequences. In 1979, the Spanish government, then headed by centrist Premier Adolfo Suárez, signed a new Concordat with the Vatican.<sup>12</sup> In it, the Catholic Church accepted the need to become financially self-sufficient within a foreseeable future. In 1987, the socialist cabinet of Felipe González concluded another agreement that provisionally assigned the Church a percentage of the personal income tax of Catholic taxpayers within Spain, with the proviso that the state would supplement this amount if it did not reach the expected total sum. In 2007, Premier Rodríguez Zapatero increased the percentage and made the tax permanent, while suppressing the state supplement. Nonetheless, the Church still indirectly receives an additional and substantial amount of public money through funds for Catholic schools, religion teachers, non-governmental organizations (NGOs) and the restoration of artistic patrimony.<sup>13</sup>

While being historically and culturally hegemonic, Catholicism is not the only confession in an increasingly multi-ethnic Spain. After a long period of resistance, Franco’s regime accepted a limited degree of religious freedom, but only during the democratic period has this issue been addressed in a more comprehensive way. The status of non-Catholic denominations is specifically regulated by a law on religious liberty.<sup>14</sup> This law opened the way for cooperation agreements between the state and those religions recognized as being “significantly rooted” in Spanish society. So far, this status has been granted to seven denominations, including Muslims, Jews and Evangelicals in 1992, Mormons in 2003, Jehovah’s Witnesses in 2006, Buddhists in 2007 and the Orthodox Church in 2010. Of these, only the first three groups have signed

collaboration accords with the state, although the development of these agreements has not been completed. Since Spanish law compels the different branches of every denomination to federate in order to negotiate with the state, occasional frictions have arisen concerning the representativeness of the resulting organizations. The legal standing of such agreements is, in any case, very different from those signed with the Vatican. The Concordats have the status of international treaties while the agreements with the Muslim, Jewish and Protestant communities are ordinary laws issued by the Spanish parliament.

## Education and Language

The organization of education is closely related to the religious issue. In fact, education has become a testing ground for the political interaction of the Catholic Church with the state. Since 1985 the Spanish educational system has been organized in two big sectors: a public school system and a network of private schools subsidized by the state. The latter is overwhelmingly composed of Catholic schools, which nowadays comprise about one third of the primary education in the country. Loyal to its historical tradition, the Church operates as a powerful lobby that mobilizes a web of associations, media and political connections to pressure the government whenever it feels its material or ideological interests are threatened. Catholic groups have thus systematically opposed the legal definition of education as a “public service”. They have instead framed education as a “right” connected to religious liberty and more concretely as the right of parents to procure a Catholic education for their children. Accordingly, they believe this right should

be guaranteed by the state through educational subsidies to Catholic schools. The Concordat of 1979 similarly established that public education should be “respectful” of Christian values and that the teaching of Catholic religion should be made available in public schools. Catholic instructors are thus paid by the state, but their appointment or dismissal is decided exclusively by the bishops. The Church has also opposed the introduction of “civic education” in the curriculum, which it judges as an attempt by the state to snatch the moral upbringing of the children from their parents. The education law passed by the conservative cabinet of Prime Minister Mariano Rajoy in 2013 has not only suppressed civic education and entrenched the presence of religion in the syllabus, it has also granted academic value to the marks obtained in the subject of religion.<sup>15</sup> Given the wide contestation that this decision provoked, it seemed unlikely that the law would survive a change of government.

The use of vernaculars as languages of instruction in education has also been a recurrent source of political disagreement, particularly in Catalonia. Catalan, Galician and the Basque languages have a co-official status in their respective regions. This is also true for the variety of Catalan spoken in Valencia and the Balearic Islands, but only in Catalonia is the vernacular exclusively used for language immersion. That the Catalan language is not a “problem” but a tool for integration is a truism among the nationalist circles, which view any complaint in this field as mere political instrumentalization. In contrast to Ireland or Scotland, and to a lesser extent than in the Basque Country, language has traditionally been at the core of Catalonian nationalist ideology. Catalan entered a

situation of diglossia—a distinction between “high” and “low” usage—during Franco’s dictatorship. Although Catalan was the language of the upper classes and Spanish was the language of immigrants from the south, in this period Catalan was banned from schools, nor was it used by the administration or the media. The transition to democracy became an occasion to “normalize” the status of Catalan as the region’s native tongue. Still, Spanish is the first language of almost 60% of the region’s inhabitants. Throughout the democratic period, the Catalan government has systematically rejected the creation of two language-differentiated school systems. With the recent sovereigntist upsurge, the imposition of Catalan unilingualism has found its way onto the nationalist agenda, creating uneasiness within the governing coalition as well as Catalan public opinion.<sup>16</sup> In addition, several decisions of the Supreme Court have endorsed the right of Spanish-speaking children to receive at least 25% of their education in their mother language, if their parents so decide. In any case, the political and cultural hegemony surrounding the issue of unilingualism is so strong that it is difficult to know if the lack of demand for it is real or merely pre-empted.

## Memory

The politics of memory has erupted with force in the international political arena. Its consequences can be felt across a broad spectrum of issues, from international law to public ethics. Since the figure of the *desaparecido* (missing person) became internationally known in the 1970s through the military dictatorships in the Southern Cone, a new repertoire of public tools exist to address the reparation of human rights abuses, including

political initiatives like “truth commissions”, normative categories like “transitional justice” and legal principles like the “universal jurisdiction” for crimes against humanity. The beneficiaries of these kinds of actions and policies have been the victims of past abuses, their relatives and descendants, but the ultimate field of contestation is the moral conscience of the societies in which such violations were committed. A standard to evaluate the dignity of a society is the way in which it treats its victims. This is how the demands for justice and symbolic restoration have entered the dimension of “historical memory.”

Unlike other transitional experiences in the world, in Spain there was no “truth commission” after the end of the Franco dictatorship, no reports on its crimes, and no symbolic reparations were paid to its victims. The Amnesty Law passed by the Spanish parliament at the beginning of the transition tried to cancel—from both legal and political perspectives—the consequences of the Civil War and the subsequent dictatorship.<sup>17</sup> This law protected not only those who had clandestinely resisted Franco or committed terrorist acts but also those officials of the regime responsible for violations of human rights.

Unlike the contested laws of amnesty in Chile and Argentina, in Spain, the cancellation of penal responsibility for past crimes was met with a considerable degree of social consensus. No one took responsibility for the crimes of the past, and no one demanded it either. Economic compensation for those who had suffered imprisonment or some type of reprisal under Franco was delivered with considerable discretion. The fear of a political

entanglement prevented the inclusion of a restorative or therapeutic process for the victims in the democratization process. The generational gap between those who fought in the Civil War and the political actors who guided the transition to democracy also affected the outcome. Opposition groups were eager to consolidate the institutional changes that would permit their accession to power. They were also aware of the social support that Franco's regime had developed over time. In this context, achieving vindication and justice for victims of the past were seen as less urgent than strengthening a political alternative for the future. Since both sides in the Civil War were responsible for committing atrocities, they concluded nothing would be won by digging up the past other than bringing old family demons to life. The alleged symmetry of guilt—that is, the proposition that *all* Spaniards were equally responsible for the outbreak of the war—helped reformist elements in Franco's regime move toward democracy. The proposition also enabled the opposition to pursue reform, rather than the break up of the institutions of the dictatorship. However, the conflation of amnesty with amnesia produced a political transition without the kind of transitional justice that later proliferated all over the world. There was no healing of the historical wounds of the Civil War and the dictatorship; instead the past was at once closed and redeemed by throwing it into oblivion.

The consequences of this decision have become less and less tenable. The circumstances that conditioned the transition—mainly the fear of an authoritarian backlash—are nonexistent today. The stakes are therefore much higher now that the politics of memory have erupted in the political arena. The consensual urge with which the

transition to democracy was legitimized prevented the reconciliation of Spanish society with its own past. Rather than an amnesty, the Spanish transition is now often viewed as a “pact of oblivion” or as a “silencing of the past.” The originators of the amnesty—conservative and progressive—continue to stand side by side in efforts to preserve the established template and resist revisions of the transition narrative, but the new generations have lost the fears that menaced their forebears and thus have developed an interest in those issues which their parents did not wish to revive. It is the grandchildren of the victims, rather than their children, who are now seeking vindication for their memory and dignity. This new generation has opened a public debate that can no longer be postponed. The proclamation of a Law of Historical Memory in 2007 has been the most conspicuous result of this process.<sup>18</sup> This law contains different types of measures: it recognizes the individual “right to memory;” it denies the legitimacy of the Francoist courts that violated fundamental rights, therefore repealing the validity of their norms and resolutions; it offers economic support for those excluded from former compensation programs; and it sets a series of rules both for the exhumation of mass graves and for the eradication of every form of apology of the Civil War and the dictatorship from the public space. As expected, the movement for the recovery of Spain's historical memory has met strong opposition from conservative sectors. After the 2011 election, the cabinet of Prime Minister Rajoy did not revoke the Law of Historical Memory, but it has been left without financing. One of the main ideological drivers of some emerging political parties is criticism of the new narrative of the democratic transition.

As in the case of the victims of the Civil War and the dictatorship, the reconstruction of the democratic memory of Spanish society is once more on the table in the Basque region, where the debate over the recognition due to the victims of terrorism has settled. Acknowledging the harm done is a prerequisite for any pardon of imprisoned terrorists or offer of a Church-authored penitentiary benefit, as well as an integral part of the peace process.

## VI. SPAIN'S TRANSITION TO DEMOCRACY: EMERGING LESSONS FOR PLURALISM

Of all the challenges confronting the Spanish transition to democracy, the territorial articulation of the country has proven the most difficult and longstanding. As the miscarried reform of the Catalan statute of autonomy has shown, decentralization remains an unresolved issue. If not for the decision of the Constitutional Court, the new statute might well have opened a new political cycle for the next generation. Instead, the fact remains that there are two regional societies in Spain—Catalonia and the Basque Country—with their own political centre of gravity that perceive themselves as “nations”. Aside from linguistic differences, the political ambitions fuelled by this perception cannot be explained without reference to the economic standing and urban character of both regions. Despite a deficit of political recognition, both regions enjoyed a privileged role in the industrialization of Spain, benefitting from an internally protected market and an influx of

cheap labour from less wealthy areas of the country. This privileged role helps to explain the reticence of some regions to accept any sort of federal asymmetry that might bestow a further economic or fiscal advantage on Catalonia. In response, Catalonia criticizes the low economic performance and endemic dependence of Spain's poorer regions on state subsidies. Unfortunately, there is no easy exit from the circular reasoning of nationalistic and populist rhetoric. Some political groups have proposed a referendum on self-determination as a possible resolution to the current impasse and as a deterrent for lukewarm sovereignists, but to have any effect a referendum must present an attractive proposal. Opponents of Catalan self-determination warn of the potential domino effect on other regions and the risk of Spain's “Balkanization”. In any case, solving the Catalan puzzle will require some kind of constitutional reform as well as popular consultation.

Constitutional reform that recognizes a deeper level of differentiation between “historic” communities and the other regions as well as a more generous financial deal for Catalonia might present an alternative escape route from the present standoff. For many, such as former Prime Minister Rodríguez Zapatero, this option would require going back to square one of the Catalan statute to reformulate its original terms. For others, the solution is to reorganize Spain as a “multinational state”. This option would not deter the pro-independence forces, but it would absorb a sizeable part of the Catalan constituency that does not wish to follow the independence path. A “multinational” Spain is not a readily acceptable option; however, for the rest of the country, which tends to see

Spain as a political nation, not as a patchwork of ethnicities. The multinational option will certainly not be accepted if it entails recognizing different sovereign constituent powers for each “nationality”. The Castilian-speaking regions are far from homogeneous, with some—such as Andalusia or the Canary Islands—also making ample use of the “national” and “differential” rhetoric. Local interests are deeply entrenched in the political and institutional history of the country. The problem is thus not self-government as such, but which type and for what purpose.

Despite its lack of popularity in the rest of the country, all political parties in the Spanish Parliament voted for the new Catalan statute, except for the two parties more clearly identified with Spanish and Catalan nationalism—the People’s Party and the Republican Left of Catalonia—for which the statute offered either too much or too little. Reluctance to embrace pluralism is not exclusive to the “majority” nationality. The “minority” nationalities have also been torn apart by rigid definitions of their collective identity. Nationalism bitterly divided Basque society in the 1970s and 1980s, and it has now separated Catalan society into two unstable and fluctuating opinion blocs whose preferences are difficult to process politically. One problem seems to lie with the dynamics of nationalist politics in general, not just with the collective self-perception of the different regions. The “nation” is a powerful concept when used to influence mindsets, but of little help and flexibility when it comes to defining it in a juridical and political frame. This challenge is particularly evident in complex and heterogeneous societies such as Spain.

“Multiculturalism” became a buzzword in the 1990s, when the first large wave of foreign immigration arrived in the country, principally from other parts of Europe, North Africa and Latin America. The handicaps posed by some of the compromises made during the transition—such as the incomplete secularization of some public institutions—then became obvious. Apart from some modules for compensatory education in primary school, no specific pluralist policies were devised for the integration of immigrants. The possibility of discrimination was a source of concern, but no legislation or affirmative action programs were encouraged. The labour market, the legal system and the welfare state—mainly public health and educational services, both provided on a regional basis—were deemed sufficient. In the regions with vernacular and militant identities, the integration of foreign immigrants became an additional challenge. This challenge was particularly felt in Catalonia, where, together with Madrid and the Mediterranean regions, the largest percentage of the immigrant population resides. The “emergent nationalism” of Catalonia has therefore struggled simultaneously to integrate newcomers into the local society while also attempting to loosen the region’s links with the central government. These challenges apply two very different normative frames: internal integration versus external autonomy. The inevitable political tensions are reflected in the legal battles that citizens and governments (both central and regional) have waged in the courts during the last decades for individual rights and administrative competence. This kind of political contention is to some extent a usual characteristic of federal states, but a substantial part of Spain’s recent experiences also derives from the dynamics

of nationalist politics. Even if the normative frame of nationalism is not cast in iron, the principles of individual and collective self-determination display conflicting interfaces that are not resolved by the grand narratives of “nation building”, “sovereignty”, “emancipation” and the like. Nationalist identity politics cannot be reconciled with pluralist principles in the absence of a deep-rooted political culture that accepts and promotes multiple affiliations.

To a certain extent, Spain’s institutional system has helped channel nationalistic politics in pluralist-friendly ways, but its overall success has been eroded with the years. The electorate has learned to cast different votes in the local, regional and national elections, thus indirectly fostering a territorial system of political checks and balances, but regional self-government did not stem the mounting terrorist campaign launched by ETA in the 1970s—although the situation could have been considerably worse without it. In spite of some obvious abuses by the police forces during the early years of the transition, many political leaders in the Basque region adopted an equidistant stance for too long, describing nationalist violence as the undesirable result of an arcane conflict between the “state” and the “Basque people”. In Catalonia, court decisions concerning linguistic rights have been strategically accepted or ignored by the Catalan government depending on vested interests. And at the national level some political groups have manifestly attempted to stack the Constitutional Court for partisan purposes, particularly during the reform of the Catalan statute, a strategy that proved fatal to the reform. A political system of such complexity as the Spanish system cannot operate

without legitimate court authority, particularly when the country’s territorial balance depends upon these adjudicative functions. The preservation of judicial independence therefore emerges as an obvious but nonetheless relevant lesson from the Spanish experience for pluralism. A legitimized system of neutral rules and independent arbiters is crucial to appease possible perceptions of regional disloyalty or majoritarian hegemony. The role of intellectuals, academics and the media as creators of public opinion cannot be disregarded in this matter. Collective identity is to a large extent a narrative process whose normative underpinnings need to be publicly examined and evaluated.

For many Spaniards, the secularization of the state is pending since the transition to democracy. According to this view, the privileges granted to the Catholic Church by the current Concordat contradict the principles of equal respect, separation between political power and religious communities, and the religious neutrality of the state that should inspire a pluralist democracy.<sup>19</sup> The formal banner of religious liberty conceals the fact that, in many aspects, being a Catholic continues to be significantly easier in Spain than holding a different confession or none. This is not merely a matter of cultural hegemony or social tradition but of state intervention as well. The public status of the Catholic Church and the political debate over its status reflect the internal cleavages of Spanish society and the diminishing weight of organized religion within a general context of secularization. Over three-quarters of Spaniards declare themselves Catholic believers, although they do not necessarily share the patrimonial attitude of the high ranks of the Church towards the state or their social

morals.<sup>20</sup> Although Catholicism is still a prevailing cultural force in the country, it has lost much of its former clout as a political lever. The mobilization of the Catholic Church vis-à-vis the state—combined with the inertia of its historical hegemony—compensates for this diminished social grip and reveals the deep-rooted reliance of the Spanish Church on public resources and state cooperation. Attempts to placate Church belligerence against groundbreaking initiatives, such as gay marriage or abortion, with fiscal gifts have been in vain, as socialist Prime Minister Rodríguez Zapatero experienced firsthand. From a democratic perspective, outreach to the majority religious sectors of society with a sensibility for these new civil rights would have made more sense.

Finally, the tacit agreement to bury the past during the transition to democracy has not been without consequences. The amnesia of the Spanish democracy has deprived it of a solid reference point. Historical memory is not about criminal responsibility. It makes no sense to demand this type of accountability for crimes that were committed over half a century ago. The criminals and their victims are long dead. Acknowledging memory nevertheless has therapeutic, political and didactic qualities. The collective identity of a society and the meaning attributed to its institutions are ingrained in the perception of historical time. Narratives of collective identity provide a reference for the individuals with the past of their country. A connection with the past is the main way in which citizens come to accept responsibility for the actions of former generations. Spanish society has yet to deal with the long-term consequences of the Civil War and the dictatorship from a fuller

perspective than one-sided demands for reparation or the political expediency of strategic forgetfulness. The result of this deficit of memory has been the confusing impression that Spain's current democratic institutions owe their political pedigree as much to the "pacifying" effects of late Francoism as to the efforts of opponents to it. The conventional narrative thus portrays the Spanish democracy as a primeval act, divorced from history, rather than as the restoration of an interrupted political tradition. Memory, not forgetfulness, enhances the moral and political quality of collective life. To have sympathy for victims, to restore their dignity symbolically and to place them in our memory, these are tasks whose rightful resolution determines the civic health and vitality of a democratic and pluralist community that is able to balance competing aspirations.

## NOTES

- <sup>1</sup> Transitional justice is commonly defined as “a set of judicial and non-judicial measures implemented in order to redress legacies of human rights abuses. Such measures include criminal prosecutions, truth commissions, reparations programs, and various kinds of institutional reforms.” International Centre for Transitional Justice, <https://www.ictj.org/about/transitional-justice>.
- <sup>2</sup> Samuel P. Huntington (1991), *The Third Wave: Democratization in the Late Twentieth Century* (Norman, OK: University of Oklahoma Press).
- <sup>3</sup> In general terms, such differentiation tried to distinguish those non-democratic systems which permit a limited degree of institutional representation in the form of corporate or bureaucratic bodies, from those which depend on a monopoly of power and rely on intense mass mobilization. See Juan Linz (1964), “An Authoritarian Regime: Spain,” in *Cleavages, Ideologies and Party Systems: Contributions to Comparative Political Sociology*, edited by E. Allardt and Y. Littunen (Helsinki: Westermarck Society), 291–341.
- <sup>4</sup> See Amando de Miguel (1975), *Sociología del franquismo* (Barcelona: Euros) and Antonio López Pina and Eduardo L. Aranguren (1976), *La cultura política de la España de Franco* (Madrid: Taurus).
- <sup>5</sup> The decisions taken at the 26th Congress of the PSOE can be found in Andrés de Blas Guerrero (1978), “El problema nacional-regional español en los programas del PSOE y PCE,” *Revista de Estudios Políticos* 4 (julio–agosto): 155–70.
- <sup>6</sup> Mariano Sánchez Soler (2010), *La transición sangrienta: Una historia violenta del proceso democrático en España, 1975–83* (Madrid: Península).
- <sup>7</sup> The complete text of the Court decision can be found at <http://www.tribunalconstitucional.es/es/jurisprudencia/Paginas/Sentencia.aspx?cod=16119>.
- <sup>8</sup> See, for instance, the reaction of journals such as: El País ([http://elpais.com/elpais/2010/06/28/actualidad/1277713023\\_850215.html](http://elpais.com/elpais/2010/06/28/actualidad/1277713023_850215.html)); La Vanguardia (<http://www.lavanguardia.com/politica/20100628/53954687453/el-tc-avala-la-mayor-parte-del-estatut-pero-recorta-14-articulos.html>); ABC (<http://www.abc.es/20100628/espana/estatut-sentencia-201006281915.html>); and El Mundo (<http://www.elmundo.es/elmundo/2010/06/28/barcelona/1277745460.html>).
- <sup>9</sup> Poder Judicial de España, *Estudio sobre las necesidades de los juzgados y tribunales en casos de especial complejidad*, <http://www.poderjudicial.es/cgpj/es/Poder-Judicial/En-Portada/Estudio-sobre-las-necesidades-de-los-juzgados-y-tribunales-en-casos-de-especial-complejidad>.
- <sup>10</sup> Transparency International (2013), *Corruption Perceptions Index, 2013*, <http://www.transparency.org/cpi2013/results>.
- <sup>11</sup> The Spanish Constitution, passed by the Cortes Generales in Plenary Meetings of the Congress of Deputies and the Senate, held on 31 October 1978. Section I: Fundamental Rights

and Public Liberties, Article 16.3, <http://www.tribunalconstitucional.es/es/constitucion/Paginas/ConstitucionIngles.aspx>.

- <sup>12</sup> Curia Romana, Secretaría de Estado (1979), *Conventiones Inter Apostolicam Sedem et Nationem Hispanam*, [http://www.vatican.va/roman\\_curia/secretariat\\_state/archivio/documents/rc\\_seg-st\\_19790103\\_santa-sede-spagna\\_sp.html](http://www.vatican.va/roman_curia/secretariat_state/archivio/documents/rc_seg-st_19790103_santa-sede-spagna_sp.html).
- <sup>13</sup> Informe de la Fundación 1º de Mayo (2012), *Financiación de la Iglesia Católica y Gasto Público*, April.
- <sup>14</sup> Ley Orgánica 7/1980, de 5 de julio, de Libertad Religiosa, <https://www.boe.es/boe/dias/1980/07/24/pdfs/A16804-16805.pdf>.
- <sup>15</sup> Ley Orgánica 8/2013, de 9 de diciembre, para la mejora de la calidad educativa (LOMCE), [https://www.boe.es/diario\\_boe/txt.php?id=BOE-A-2013-12886](https://www.boe.es/diario_boe/txt.php?id=BOE-A-2013-12886).
- <sup>16</sup> This debate was opened in 2015, when a group of nationalist intellectuals and academics (called *Koiné*) made public a manifesto in favour of unilingualism as the only option for a “true” normalization of Catalan in an independent Catalonia, [http://www.ara.cat/2016/03/29/Manifest\\_Koine.pdf?hash=fa6b3faff6dcdd06e79bda60116563e14a26b7dc](http://www.ara.cat/2016/03/29/Manifest_Koine.pdf?hash=fa6b3faff6dcdd06e79bda60116563e14a26b7dc).
- <sup>17</sup> Ley 46/1977, de 15 de octubre, de Amnistía, <http://www.boe.es/buscar/doc.php?id=BOE-A-1977-249>.

<sup>18</sup> Ley de la Memoria Histórica (Ley 52/2007 de 26 de diciembre), <http://leymemoria.mjusticia.gob.es/cs/Satellite/LeyMemoria/es/memoria-historica-522007>.

<sup>19</sup> On the normative base of political secularism, see Jocelyn Maclure and Charles Taylor (2011), *Secularism and Freedom of Conscience* (Harvard, MA: Harvard University Press).

<sup>20</sup> Fundación BBVA (2010), *European Mindset*, Fundación BBVA, Departamento de Estudios Sociales y Opinión Pública.

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