

# The Consequences of Federal Origins

## Learning from the Spanish Experience

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### I. Introduction

Post-Franco Spanish governance represents a rare case of a stable multinational federation in comparative and historical perspective.<sup>1</sup> In contrast to other multinational federations that arose from dictatorial rule, such as the Soviet Union and Yugoslavia, Spain has not compromised its geographical integrity, and its federal institutions are still operating after more than two decades. Moreover, the first attempt to decentralize Spain in response to nationalist mobilization failed miserably, and led to civil war and fascism.<sup>2</sup> This makes Spain's peaceful and stable transition to a multinational federal democracy that much more remarkable. The question, then, is *what accounts for the stability of Spain's post-1978 federation?*

A comparative approach to this question would be to isolate the variables that differentiate Spain from the Soviet Union and Yugoslavia. At first glance, this comparison makes intuitive sense because each case experienced a period of authoritarian rule that corresponded with repressive state policies to assimilate national minorities into the dominant culture. Nevertheless, this comparison introduces methodological problems because the cases of

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\* With sincere thanks, I acknowledge the valuable comments of Bruce William Morrison on a different version of this paper, and the helpful suggestions provided by the journal's reviewer.

<sup>1</sup> I rely on Lijphart's definition of stability: "a political system's ability to survive intact." See Arend Lijphart, "Typology of Democratic Systems," *Comparative Political Studies*, vol. 1, no. 1 (1968), p. 4.

<sup>2</sup> The first attempt to federalize Spain in 1873 never materialized because following the declaration of the Republic, the Radicals resisted federalism in favour of unitarism. Moreover, no democratic elections were held during the First Republic (1873-1874). It is, therefore, not relevant to this comparative analysis.

failed multinational federations are not comparable to Spain due to differences in economic and democratic development. The less than optimal economic conditions and poor record of democracy in the Soviet and Yugoslavian federations diverges from Spain's high levels of prosperity and democracy during the Second Republic (1931-36) and post-Franco period (1975-present). On the other hand, the model of decentralization found in the 1978 Constitution is quite similar to that found in the constitution of the Second Republic.<sup>3</sup> A more appropriate approach, therefore, is to use evidence from Spain's two federal experiments to determine what differentiates the current stable model from the prior failure.

A consideration of origins—prominent in the literature on federalism—provides some insight into the question at hand. Drawing upon classic theorists, such as William H. Riker, K.C. Wheare and Thomas M. Franck, John McGarry and Brendan O'Leary (MO) argue that federations, which arise from a consensus among the different ethnic cleavages in the state, are more likely to endure.<sup>4</sup> Moreover, they propose that a federal consensus can bring two distinct polities into union or hold a previously unitary state together. An examination of the circumstances leading to Spain's federations of 1931 and 1978 appears to validate this proposition, because the latter arose from a consensus among elites representing all prominent political groups, while the former did not.

It is important to recognize, however, that the ambiguities necessary to allow for consensus in 1978 are responsible for the current challenges by the Basque and Catalan nationalist parties to the 1978 Constitution, which is endangering its stability. A second, more

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<sup>3</sup> Justo G. Beramendi, "Identity, Ethnicity and State in Spain: 19<sup>th</sup> and 20<sup>th</sup> Centuries," *Nationalism and Ethnic Politics*, vol. 5, nos. 3-4 (1999), pp. 92-93.

<sup>4</sup> Alfred Stepan, "Federalism and Democracy: Beyond the U.S. Model," *Journal of Democracy*, vol. 10, no. 4 (1999), pp. 21-23; Thomas M. Franck, "Why Federations Fail." In Thomas M. Franck (ed.), *Why Federations Fail: An Inquiry into the Requisites for Successful Federalism*, New York, NY: NY University Press, 1968, 167-199; John McGarry and Brendan O'Leary, "Federation as a Method of Ethnic Conflict Regulation." In Sid Noel (ed.), *From Power Sharing to Democracy: Post-Conflict Institutions in Ethnically Divided Societies*, (Montreal, QC: McGill-Queen's University Press, 2005), pp. 286-287.

theoretical question, then, *is whether long-term stability is at all dependent on the circumstances that facilitate the consensual establishment of a federation?* The Spanish case suggests that the conditions that lead to a consensus will affect the future dynamics of the federation, thus calling into question MO's assumption that federal bargains of the 'coming' and 'holding' together varieties are equally capable of producing long-term federal stability.

## **II. The Importance of Federal Origins**

Writers on federalism, from Kenneth Wheare (1953) to Thomas Franck (1968) to Alfred Stepan (2001) to MO (2005), place considerable emphasis on the circumstances that lead to federation. Therefore, according to these scholars, federalism is a mechanism for bringing together a new state or holding together an existing state if, the appropriate conditions are present.

Wheare identifies two factors that are pre-requisites of federal government. First, the prospective members of the federation must desire to be under a single independent government for some purposes. Second, the desire to retain or establish independent regional governments must coincide with the desire to unite.<sup>5</sup> Wheare acknowledges that these propositions are not useful without an answer to the question: "what are the factors or circumstances which lead communities to desire [federation] and at the same time to desire separation within the union?"<sup>6</sup> The answer to this question, says Wheare, will allow us to assert whether or not federal government will succeed in a given territory.

According to Wheare, the sources of the desire to federate are as follows: a sense of military insecurity; a hope of future economic advantage; a desire to be independent of foreign

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<sup>5</sup> Kenneth C. Wheare, *Federal Government*, (New York, NY: Oxford University Press, 1953), pp. 35-36.

<sup>6</sup> Wheare, *Federal Government*, p. 37.

powers; and some prior political association. This list is not exhaustive or exclusive, as any one or combination can produce the desire to unite. Telling for those interested in the use of federalism to unite different nationalities, is the omission of a common language, race or religion from Wheare's list. In fact, he argues that divergence of nationality and previous existence as distinct governmental units are the main factors that produce the desire for the federating communities to remain separate within the union.

Thomas Franck, another scholar who emphasizes the importance of federal origins, divides the factors and goals that bring about federal structures into three categories.<sup>7</sup> Tertiary goal-factors are to prevent war between disparate ethnic groups or socioeconomic classes, and thus, not to harness any genuine common interests in union. Secondary goal-factors are parallel interests between groups, such as a common language, culture, colonial heritage, challenges, and enemies, which make federation appealing. Primary-goal factors elevate the intrinsic value of federalism above all other political values. Drawing upon evidence from four multiethnic federations that "failed"—the Federation of Malaya, West Indies Federation, the Federation of Rhodesia and Nyasaland, and the East African Federation—Franck presents some tentative conclusions: 1) Tertiary goal-factors contain the seeds of their own defeat because conflicting groups will inevitably try to dominate the federation or use its autonomous institutions to separate 2) Secondary goal-factors, while helpful to the federal cause, do not guarantee against failure 3) The absence of primary-goal factors make success improbable.<sup>8</sup> In short, the "one

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<sup>7</sup> See Thomas M. Franck, "Why Federations Fail," in Thomas M. Franck (ed.), *Why Federations Fail: An Inquiry into the Requisites for Successful Federalism*, (New York, NY: NY University Press, 1968), pp. 170-173.

<sup>8</sup> Franck, "Why Federations Fail," p. 171.

consistent factor” in the failed federations is the “absence of a commitment to the primary goal of federation as an end in itself.”<sup>9</sup>

Franck and Wheare share a belief that the sources of the desire to federate—or in Franck’s terms, secondary-goal factors—provide the basis for the long-term survival of federal institutions in ethnically divided societies. Franck is more sceptical of this correlation, however, and proposes that secondary goal-factors must create an ideological commitment to federation as *good for its own sake*, because federalism will not survive as a means to an end, but only as an end in itself. Yet, his work does not specify what circumstances or factors produce this transition, nor is he clear about what constitutes an ideological commitment to federalism *per se*. The main contribution of Wheare and Franck, therefore, is to illuminate the importance of circumstances surrounding the origins of federations on the prospects of long-term success. Considering that much of the literature concerning the utility of federalism as a means to regulate ethnic conflict focuses on institutional design, a resurrection of this approach might yield some important theoretical insights.

Alfred Stepan concurs with Wheare and Franck that origins are important to federal success, but argues that a distinction—not made by these authors—between federations whose initial purpose is to “come together” versus those whose purpose is to “hold together” is necessary.<sup>10</sup> In Wheare’s ideal schema, a group of individual polities, all of which have strong identities, perceive benefits in pooling their sovereignty and thus “come together” in a federation. Some of the most prominent multinational federations in the world, however, emerged from a different set of circumstances. Spain, Belgium and India were once political systems with strong unitary features, but political elites in each decided that the only way to

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<sup>9</sup> Franck defines failure as “the discontinuation of a constitutional association between certain units.” Franck, “Why Federations Fail,” p. 174.

<sup>10</sup> Alfred Stepan, *Arguing Comparative Politics*, (Oxford, U.K: Oxford University Press, 2001), pp. 320-323.

prevent disintegration was a constitutional devolution of power to subnational units. Therefore, a supplement to Wheare's ideal path to federation, which Stepan calls a "coming together" federation, is a "holding together" federation.

Wheare's proposition does not exclude the possibility of a stable authoritarian federation if it comes together because of a desire amongst the units to come together and remain separate. Riker, in his interpretation of federal formation in the Soviet Union, argues: "there [was] a universally feared threat and a sense of provincial loyalty owing to differences of ideology [and ethnicity]."<sup>11</sup> Assuming that this is accurate, the birth of the Soviet federation meets Wheare's requirements, and thus its breakdown is not a result of the circumstances surrounding its origins. However, Stepan argues this is a distortion of history because some of the units, such as Georgia, Azerbaijan, Armenia, Latvia, and Estonia, "were integrated by a significant degree of military force" into the Soviet federation between the 1920's and 1940's.<sup>12</sup> In other cases, such as Bosnia-Herzegovina, the imposition of federal institutions by international actors took place without the consent of minority political elites. Consequently, Stepan enumerates a third category of federal formation called "putting together."

John McGarry and Brendan O'Leary (MO) articulate five conditions that facilitate the success of a multinational federation. They adopt Stepan's three categories of federal formation to argue that "federations that are *consensually* established as a result of elite bargaining, whether of the "coming" or "holding" together variety, are more likely to provide the necessary means to manage ethnic conflict than those from 'putting' together origins."<sup>13</sup> A foundational act of cooperation is also more likely than one of coercion to promote traditions of

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<sup>11</sup> William H. Riker, "Federalism," in Fred Greenstein and Nelson W. Polsby (eds.), *Handbook of Political Science*, (Reading, MA: Addison Wesley, 1975), p. 122.

<sup>12</sup> Stepan, *Arguing Comparative Politics*, p. 322.

<sup>13</sup> John McGarry and Brendan O'Leary, "Federation as a Method of Ethnic Conflict Regulation," in Sid Noel (ed.), *From Power Sharing to Democracy: Post-Conflict Institutions in Ethnically Divided Societies*, (Montreal, QC: McGill-Queen's University Press, 2005), p. 286.

accommodation. They compare the origins of the Canadian, Swiss, Spanish, Belgian and Indian federations, stating that each owes its success to constitutional agreements reached by political elites. In doing so, they imply that “coming” and “holding” together federations stand the same chances of success.

A summary of the preceding theoretical propositions is as follows: 1) federations that arise from ‘coming together’ or ‘holding together’ origins are likely to endure 2) ‘putting-together’ federations are usually unstable. The two federal experiments in Spain present an ideal test of these propositions because each arose from a different set of circumstances.

### **III. Federalism in the Second Republic: Not Quite ‘Holding Together’ Federalism**

Throughout the 19<sup>th</sup> century, Spanish liberal nationalism failed to take root in peripheral regions with distinct ethnic identities, such as Catalonia, the Basque Country and Galicia. The centralizing policies of both the Restoration period (1876-1923) and Primo de Rivera’s dictatorship (1923-1930), therefore, acted as stimulus for nationalist mobilization in these regions. The left-wing parties responsible for the installation of the Second Republic negotiated with the various nationalist movements to make a significant contribution to the maintenance of Spain’s unity.<sup>14</sup> Despite the best efforts of these various groups, however, federalism was unstable and short-lived, because the negotiations excluded significant political groups, and so was partly imposed, rather than agreed to.

Shortly after the proclamation of the Second Republic, the Catalan nationalists began negotiations with the provisional Republican government to establish a Statute of Autonomy. The two sides quickly came to an agreement to reestablish the *Generalitat* of Catalonia with exclusive power in designated policy areas because the nationalists were moderate on most

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<sup>14</sup> I use the term nationalist in this paper to refer to sub-state nationalists.

points, not contesting the absolute sovereignty of the Spanish state.<sup>15</sup> The draft statute was submitted to a popular plebiscite in Catalonia on 2 August 1931, with 75% of the electorate participating; it received a 99% approval rating.<sup>16</sup>

Basque nationalists tried to move with equal rapidity, as the four Basque province mayors met to discuss an autonomy statute three days after the Second Republic began. Parliamentary approval of Basque autonomy came slower than it did for Catalonia, however, because the Republican government did not accept the nationalists' request for autonomy in church-state relations. A revised statute that abandoned this request obtained broad support in three out of four Basque provinces in a referendum.<sup>17</sup> Consequently, the *Cortes* approved the Statute, giving the Basque Country rights and powers similar to those of Catalonia.<sup>18</sup>

Autonomy in Galicia, also, did not come quickly because of an initial disagreement between nationalists and Republicans over the inclusion of recognition of a Galician "nation" in the autonomy statute. The *Cortes* did approve a second initiative that termed Galicia an "autonomous politico-administrative unit within the Spanish state," which enjoyed the support of 90% of Galicians who participated in the plebiscite.<sup>19</sup>

A significant political party did not agree, however, that the quasi-federal Constitution of 1932 was the correct means to hold Spain together. The Conservatives (along with the Catholic Church) argued that the political recognition of ethnic communities would undermine loyalty to the monarchy and endanger state unity. Despite its marginal position in the provisional government, the Conservatives commanded strong support amongst Spaniards during this period.

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<sup>15</sup> The Generalitat is Catalonia's government. See Stanley G. Payne, *Spain's First Democracy: The Second Republic, 1931-1936*, (Madison, WI: The University of Wisconsin Press, 1993), pp. 100-101.

<sup>16</sup> Payne, *Spain's First Democracy*, p. 101.

<sup>17</sup> The project did not include Navarre at this point, because it rejected the abandonment of autonomy in church-state relations. The Statute was approved by 90% of Biscayans and Guipuzcoans, and 60% of Alavese.

<sup>18</sup> The *Cortes* is the Spanish Parliament.

<sup>19</sup> Luis Moreno, *The Federalization of Spain*, (Portland, OR: Frank Cass Publishing, 2001), p. 56.

The first and second democratic elections of the Second Republic attest to this, as the Conservatives won 164 of 474 seats in 1933 and 104 of 463 in 1936.<sup>20</sup> On the side of federalism, then, were the left-wing parties and the nationalists, and in favour of centralization were the conservatives, aligned with the Catholic Church. This division played a crucial role in the process of political polarization that led to the Spanish Civil War, which the proponents of centralization won, resulting in the abolishment of the nascent federal structures of the Second Republic.

#### **IV. The 1978 Constitution: ‘Holding Together’ Federalism**

The Francoist attempt to restrain all forms of regional culture through centralization and repression backfired. By the time of Franco’s death in 1975, the commitment to a decentralized and pluralist Spain amongst the parties of the left and nationalists was stronger than ever. Moreover, Franco’s failure to produce political stability and sustained economic growth convinced the main parties on the right to accept the dismantling of the centralist apparatus.<sup>21</sup> Reaching a political compromise to appease the left, right and nationalists did not prove to be easy. An exquisitely ambiguous quasi-federal Constitution, however, ensured that no party or group felt it was unacceptable.

Soon after the democratic election of 1977, a 36-member Constitutional Affairs Commission was set up with the specific task of drafting the Constitution. It consisted of members from the right leaning Union of the Democratic Centre (UCD) and Popular Alliance (AP), the left leaning Spanish Workers’ Socialist Party (PSOE) and Communist Party of Spain

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<sup>20</sup> Moreno, *The Federalization of Spain*, p. 54.

<sup>21</sup> The UCD maintained control of the *Cortes* after the first election in 1977. Daniele Conversi, “The Smooth Transition: Spain’s 1978 Constitution and the Nationalities Question,” *National Identities*, vol. 4, no. 3 (2002), p. 227.

(PCE), and, representing the nationalists, the Basque Nationalist Party (PNV) and Catalan Democratic Convergence (CDC).<sup>22</sup> Ergo, the major political parties representing Spain's pertinent cleavages (conservative, socialist, nationalist) were all included in the negotiations, unlike the process leading to the 1931 Constitution.

Originally, the three sides in the Commission articulated different positions on the new model of the Spanish state. The UCD and AP focused on granting the fifty administrative provinces of Spain more competencies under a unitary constitution. By contrast, the PNV and CDC wanted a constitutionally protected formula for self-government that would recognize the "historic nationalities" (Basque Country, Catalonia, and Galicia) as unique and worthy of special powers. This demand translated into a desire for asymmetrical federalism by the PNV and CDC to ensure that other regions in Spain did not receive the same powers as the "historic nationalities." The position of the PNV and CDC's was that symmetrical federalism—while providing the Basque Country, Catalonia, and Galicia with more autonomy—would undermine the status of the "historic nationalities" as culturally distinct from the rest of Spain (and each other). The socialists and communists were also in favour of autonomous governments for the "historic nationalities," but as a part of a general formula of federation for the entire country. In short, the parties of the left desired symmetrical federalism.<sup>23</sup>

Resolving this impasse required that each side compromise on its original position. Article 2 of the Constitution stresses the "indissoluble unity of the Spanish nation," but also "recognizes and guarantees the right to autonomy of the nationalities and regions" of Spain.<sup>24</sup>

This stipulation situates Spain somewhere between a unitary and federal state, which satisfied the

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<sup>22</sup> A strong Galician nationalist party did not exist at this point. Josep M. Colomer, "The Spanish State of Autonomies: Non-Institutional Federalism." In Paul Heywood (ed.), *Politics and Policy in Democratic Spain: No Longer Different*, (Portland, OR: Frank Cass Publishing, 1999), pp. 41-42.

<sup>23</sup> Colomer, "The Spanish State of Autonomies," pp. 42-44.

<sup>24</sup> Spain's constitution is available at <http://www.spainemb.org/information/constitucionin.htm> [Accessed 18 February 2006].

right wing parties because it rules out formal federalism. Article 151 recognizes the distinctive status of the “historical nationalities” by making their ascent to autonomous status faster and providing “high levels” of competencies to them.<sup>25</sup> The CDC accepted Article 151 as sufficient special recognition, despite the fact that it is not explicitly mentioned which regions are “historic,” leaving open the possibility that other regions might qualify for autonomy under this category. Article 143.1 gives all bordering provinces with common characteristics the right to form an Autonomous Community (AC) and eventually attain the same legal powers as regions that acceded to autonomous status under Article 150.<sup>26</sup> This satisfied the left wing parties because the provision left open the possibility of symmetrical federalism in the future.

The distribution of competencies—another issue of contention—pitted the nationalists against the left. The former suggested that the constitution set out separate subjects and fields over which the state, “historic nationalities,” and other regions have exclusive jurisdiction. The latter did not want to differentiate the powers of the “historic nationalities” from the other regions in an explicit fashion. In an effort to accommodate both sides, the constitution lists those subjects and fields over which the state has exclusive jurisdiction (Article 149), and those which regions are “entitled to assume exclusive jurisdiction.”<sup>27</sup> The nationalists took solace in the lack of precision in the initial level of powers to be adopted by each AC because of the informal indication that the “historic nationalities” would end up with a “high level” of competencies via Article 151.<sup>28</sup> It satisfied the left because the clause allows revision and expansion of the levels

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<sup>25</sup> Ibid.

<sup>26</sup> Ibid. I use Autonomous Community (AC) and region interchangeably, which is common in the literature.

<sup>27</sup> Pablo Beramendi and Ramón Máiz, “Spain: Unfulfilled Federalism (1978-1996).” In Ugo M. Amoretti and Nancy Bermeo, *Federalism and Territorial Cleavages* (Baltimore, MD: The John Hopkins University Press, 2004), p. 134.

<sup>28</sup> See note 19.

of decentralization initially received, thus encouraging a “catching up” process among the non-historic regions.<sup>29</sup>

The PNV, however, was not satisfied by the draft Constitution produced by the Committee. The Basques refused to accept any formula that did not explicitly mention the restoration of the *fueros* (Basque local rights), which had been abrogated over 100 years before.<sup>30</sup> As a result, the Basque Country was the only region of Spain that did not legitimate the Constitution in the popular referendum held in December 1978.<sup>31</sup> The formulation of the Basque autonomy statute convinced the PNV to soften their position on the Constitution, because it includes aspects of the *fueros*, most notably the right to collect taxes and transfer a proportion of them to the central government.<sup>32</sup> In a country that maintains a highly centralized tax system, this right provides the Basque Country with greater control over its resources and expenditures than the other AC’s. The PNV encouraged Basques to approve the autonomy statute, and over 90% did so in the referendum held in late 1979.<sup>33</sup> In short, the specifics of the autonomy statute were sufficient to bring the Basque nationalists into a consensus with the other major parties of Spain regarding the constitutional formulation of federal institutions.

It is important to acknowledge that the “bunker,” consisting of the army and the old Francoist cadres, contested the constitutional deviation from unitarism.<sup>34</sup> On 23 February 1981, a group of Civil Guards interrupted a session and held the Members of Parliament hostage to attempt a *coup d’etat*. The “bunker” thought it could galvanize quiescent supporters of centralism, but did not succeed because of the strong support for decentralization amongst

<sup>29</sup> Beramendi and Máiz, “Spain,” p. 134.

<sup>30</sup> Conversi, “The Smooth Transition,” p. 228.

<sup>31</sup> Conversi, “The Smooth Transition,” p. 229.

<sup>32</sup> The central government retains constitutional right to collect taxes in all AC’s except for the Basque Country and Navarre. See Colomer, “The Spanish State of Autonomies,” pp. 44-45.

<sup>33</sup> Juan J. Linz and Alfred Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-Communist Europe*, (Baltimore, MD: John Hopkins University Press, 1995), p. 100.

<sup>34</sup> Paul Preston, *The Triumph of Democracy in Spain*, (New York, NY: Methuen Publishing, 1986), p. 232.

Spanish citizens, major political parties and the monarchy.<sup>35</sup> This event provided confirmation that no significant groups in Spain opposed the quasi-federal structure of the 1978 Constitution.

The consensus among the major political groups that the only way to hold Spain together in a democracy was a constitutional devolution of power to abrogate centralism makes it an ideal case of ‘holding together’ federalism. The 1931 federal Constitution, on the other hand, was installed through a parliamentary majority supported by a coalition of the political left and nationalists that excluded the right. Moreover, no consensus-building processes similar to the Constitutional Committee or a statewide referendum took place. Therefore, the 1931 federal experiment cannot be classified as a genuine case of ‘holding’ together federalism. According to MO’s proposition, this is the key factor explaining the breakdown of federalism during the Second Republic, and the stability of the post-1978 federal institutions. A closer examination of post-1978 federalism in Spain, however, indicates that originating from pure ‘holding together’ circumstances is not the guarantor of long-term stability that MO predict.

## **V. Challenges to post-1978 Spanish Federalism: Consequences of Ambiguity**

Reaching a consensus in 1978 required an ambiguous constitutional formulation of federalism. Articles 149 through 150 did not predetermine an asymmetric or symmetric model of federalism, and this ambiguity continues to be at the root of much political contention. The mainstream political parties and non-historic regions try to use the ambiguity—with limited success—to pursue symmetry, which is causing the “historic nationalities” to view the original

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<sup>35</sup> Preston, *The Triumph of Democracy in Spain*, p. 233.

bargain as inadequate, and demand constitutional reform to place them in a type of confederal arrangement with Spain.<sup>36</sup>

The *Acuerdo Autonómico* of 1981, reached by the ruling UCD and the major opposition, the PSOE, was enacted as a means to harmonize the uneven autonomic process. The pact and the law that came out of this agreement emanated from a concern that asymmetrical decentralization might encourage separatism or another coup attempt.<sup>37</sup> The law, *Ley Orgánica de Armonización del Proceso Autonómico* (LOAPA), attempted to standardize the political power and representation of each AC, covertly eliminating the special powers of the Basque Country and Catalonia. The Basques and Catalans could not prevent the law's enactment, but invoked a constitutional challenge to delay its implementation.<sup>38</sup> In August 1983, the Constitutional Court ruled certain aspects of the law to be *ultra vires*, but upheld many principles of homogeneity between AC's. For example, the term of regional legislators is limited and each region must accept a specified number of transfers from the national civil service.<sup>39</sup> Despite the overturning of critical portions of the LOAPA, the principles that remain in effect contributed to a more symmetrical process of building regional governments.

Beginning in the early 1980's, the non-historic AC's embarked on a process of 'boundary building', which included the invention of symbols, as well as the rediscovery of local culture, encouraged by the very creation of regional governments.<sup>40</sup> Not surprisingly, the non-historic AC's soon began to exert pressure on the central government to award them the full list of

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<sup>36</sup> Confederation is akin to a 'loose' association of sovereign states. See Daniel J. Elazar, *Constitutionalizing Confederation: The Postmodern Revival of Confederal Arrangements*, (Lanham, MD: Rowman and Littlefield, 1998).

<sup>37</sup> Robert Agranoff, "Federal Evolution in Spain," *International Political Science Review*, vol. 17, no. 4 (1996), p. 390.

<sup>38</sup> Agranoff, "Federal Evolution in Spain," p. 391.

<sup>39</sup> For the remaining principles, see Agranoff, "Federal Evolution in Spain," pp. 391-392.

<sup>40</sup> Daniele Conversi, "Autonomous Communities and the Ethnic Settlement in Spain." In Yash Ghai (ed.), *Autonomy and Ethnicity: Negotiating Competing Claims in Multi-ethnic States*, (New York, NY: Cambridge University Press, 2000), pp. 130-131.

competencies under Article 149. Moreover, regions such as Aragon, Valencia, and the Canary Islands, challenged for jurisdiction over policy fields designated by the Constitution as concurrent.<sup>41</sup> The fact that the Basque Country and Catalonia have jurisdiction in some of these fields was definitely a motivating factor. This culminated in an another agreement, the *Pacto Aut3nomico* of 1992, between the PSOE and Conservatives (PP) to increase the powers of the non-historic AC's by amending their statutes within three months, triggering an addition of competencies.<sup>42</sup> Implicit in this expansion was the pursuit of a more symmetrical model of federalism.

The shift towards harmonization resulted in opposition from the nationalist parties. Prior to 1994, the PNV, *Convergencia i Uni3n* (CiU), and Galician Nationalist Block (BNG) carefully tempered demands for self-government with allegiance to the 1978 Constitution and participation in national politics.<sup>43</sup> The threat of symmetry, however, pushed the three parties to adopt a common platform of constitutional reform to associate the "historic nationalities" with the Spanish polity in a confederal arrangement. The core demand of a set of six principles for constitutional reform is the explicit acknowledgement of the plurinational character of the Spain, with the only subjects of sovereignty to be the three "historic nationalities" and Castile. The remaining five principles ensure that the "historic nationalities" maintain a substantially higher degree of self-government than the non-historic AC's.<sup>44</sup> The PP rejects constitutional reform

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<sup>41</sup> Policy fields that appear under state and AC jurisdiction in the Constitution include education, health, and environment. See Garutz Jauregui, "Spain: Political Autonomy and Ethnic Accommodation." In Crawford Young (ed.), *The Accommodation of Cultural Diversity: Case Studies*, (New York, NY: MacMillan Press Ltd., 1999), pp. 162-164.

<sup>42</sup> Beramendi and Máiz, "Spain," p. 141.

<sup>43</sup> The CDC is part of the CiU coalition that is currently the primary representative of Catalan nationalism.

<sup>44</sup> For the remaining five principles agreed upon as a set of minimum standards for constitutional reform, see Beramendi and Máiz, "Spain," p. 140.

altogether, while the PSOE argues that “solidarity,” not asymmetry, should guide a general reform of federalism in Spain.<sup>45</sup>

The conflict between the nationalists and the mainstream political parties intensified after this initial disagreement over constitutional reform. In late 2004, the PNV coalesced with the radical *Herri Batasuna* (HB) to pass the controversial Ibarretxe Plan (IP) in Basque Parliament. The plan “intends to enhance the political authority of the Basque Country almost to the point of granting it the status of a country within a country,” by situating the region outside the AC framework, albeit still “associated” with the Crown, and opens the possibility of secession, by means of a referendum.<sup>46</sup> Not surprisingly, the *Cortes* rejected the IP on the basis that it contradicts Article 2 of the Constitution. Moreover, the PP and PSOE jointly voted to ban the HB from political participation because of its supposed link to the violent separatist group, *Euskadi ta Azkatasuna* (ETA), but with an obvious underlying motive of reducing support for the IP in Basque Parliament.<sup>47</sup> This move backfired, however, as the PNV was able to coalesce with the Basque Communist Party, and garner even more popular support for the IP within the Basque Country, which now exceeds 60%.<sup>48</sup>

In October 2005, the *Generalitat* passed a regional statute to recognize Catalonia as a “nation,” empower the Catalan high court as the highest judicial authority within the region, and provide Catalonia with the power to raise all regional taxes and control subsequent revenues.<sup>49</sup> The opposition PP argues that the statute is unconstitutional like the IP, while the minority PSOE government takes a softer stance, claiming it is unacceptable in its present form.

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<sup>45</sup> Beramendi and Máiz, “Spain,” pp. 140-141.

<sup>46</sup> Violeta R. Almendral, “Basque Proposal of ‘Free Association’ Challenges Spanish Federalism,” *Forum of Federations*, vol. 4, no. 4 (2005), p. 8.

<sup>47</sup> “Spain Maintains Basque Party Ban,” *BBC News*, 17 January 2004. Available at <http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/europe/3405211.stm>. [Accessed 24 October 2005].

<sup>48</sup> André Lecours, “The Plan Ibarretxe: A New Formalism,” *McGill International Review*, vol. 6, no. 1 (2005), p. 24.

<sup>49</sup> “Bad Echoes from the Past,” *The Economist*, 12 January 2006.

President Jose Luis Rodriguez Zapatero suggests that PSOE endorsement of the statute will hinge on a reduction of the amount of taxation autonomy and changing the phrase “a nation” to “a national identity.”<sup>50</sup> In response, Catalan premier Joan Maragall charges that the PP and PSOE are unfairly treating the statute as the Catalan version of the IP, and the CiU is thus hesitant about amending it.<sup>51</sup>

## **VI. Federal Origins Revisited: Lessons from Spain**

The recent increase in conflict between the nationalist and mainstream political parties in Spain does not contradict MO’s proposition that consensually established federations are more likely to survive, but it does point to the need for a consideration of the circumstances that drive elite consensus. In the context of the transition to democracy, the elites representing the major political groups in Spain were wary that a failure to reach a political settlement might result in a reversion to authoritarian rule, an objectionable outcome to all sides. This drove elites to agree upon an ambiguous Constitution that did not settle important questions. Each group accepted the 1978 Constitution with the intention of using its ambiguity to further its own interests in the future. In other words, political elites did not share a vision of a broadly acceptable political future.

MO’s proposition does not distinguish between ‘coming’ and ‘holding’ together federations in terms of their prospects for long-term stability. In their words,

“federations that are consensually established as a result of elite bargaining, whether of the ‘coming’ or ‘holding’ together variety, are more likely to be

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<sup>50</sup> Ibid.

<sup>51</sup> “Catalonia Passes New Statute, Zapatero Wants Reflection,” *The Spain Herald*, 3 October 2005.

considered legitimate by their citizens and more likely to survive than those that result from coercion.”<sup>52</sup>

It is important here to emphasize that ‘coming’ together federations emerge from very different circumstances than those of the ‘holding’ together variety. In the latter, the subunits that federate have much less prior sovereignty, and thus less bargaining power to enter the agreement on their own terms. Furthermore, the fear of a worse alternative (i.e. authoritarian rule or civil war) forces the different sides to agree to disagree, and introduce ambiguities into the federal bargain. This can be decisive for future system stability because the different sides may (and are likely to) use those ambiguities as means to pursue their particular goals. For national minorities, this will mean a continued pursuit of more asymmetrical powers, confederation, and even independence. On the other hand, the central state will press to maintain symmetrical federalism because of the legitimate concerns that more autonomy for national minorities is merely the first step toward eventual secession. In addition, granting special autonomy to one or more regions within a federation would imply their segregation from the rest of the population.<sup>53</sup>

The Spanish case is exemplary of this dynamic because the adverse conditions under which the parties came to agreement resulted in ambiguities that engendered future conflict. Another example is the case of India, in which elite bargaining under the adverse conditions of a transition to independence led to a ‘holding together’ federation without a broadly acceptable political future. The 1947 partition of India and Pakistan did relieve some of the ethnic tension on the subcontinent, but a diverse array of languages and religions remained in the new union between the provinces of British India and the semiautonomous princely states that agreed to join

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<sup>52</sup> McGarry and O’Leary, “Federation as a Method of Ethnic Conflict Regulation,” p. 286.

<sup>53</sup> Svante E. Cornell, “Autonomy as a Source of Conflict: Caucasian Conflicts in Theoretical Perspective,” *World Politics*, vol. 54, (2002), pp. 245-246.

it following India's independence from Britain in 1947.<sup>54</sup> In light this diversity, those in charge of drafting a constitution for a free India took for granted that federalism was the only way to keep the country together. The chairman of the drafting committee, B.R. Ambedkar, was explicit that the unity of India was more important than providing substantial autonomy to the states. Ambedkar told the members of the Assembly that “the use of the word Union is deliberate...the Federation was not the result of an agreement by the States to join in a Federation.”<sup>55</sup>

As is clear from the evidence from the Spanish case, the circumstances that drive elite consensus are different in “coming” and “holding” together federations, which can affect the future dynamics of the federation. Mohit Bhattacharya notes that the integration of the 568 princely states—some of which were somewhat reluctant to join—had already occurred before Ambedkar presented a draft of the Constitution to the Constituent Assembly in late 1948.<sup>56</sup> Moreover, the Drafting Committee did not represent the provinces of British India and the princely states. It is thus, not surprising, that the central government faces the violent separatism from tribal groups that felt excluded from this process. Two good examples are the Nagas and Mizos. Each group was awarded their own state after exerting significant pressure on the central government, but continues to question the terms of their inclusion in the Indian Union in 1947. While the break up of the Indian federation is not probable, it is certainly more likely than in the cases of “coming” together federations.

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<sup>54</sup> Robert L. Hardgrove and Stanley A. Kochanek, *India: Government and Politics in a Developing Nation*, (Orlando, FL: Harcourt Brace & Company, 2000), p. 133.

<sup>55</sup> Ambedkar's speech is found in its entirety in India, *Constituent Assembly Debates*, (New Delhi, 1951), pp. 31-44.

<sup>56</sup> Mohit Bhattacharya, “The Mind of the Founding Fathers,” in Nirmal Mukarji and Balveer Arora (eds.), *Federalism in India: Origins and Development* (New Delhi, Vikas Publishing, 1992), p. 88.

## **VII. Conclusion**

The circumstances that facilitate a ‘holding together’ federation can matter a great deal. Adverse conditions often motivate political elites to cobble together an agreement to avoid a worse alternative (i.e. state dissolution, authoritarianism) that does not settle important points of contention. This inevitably engenders a certain degree of conflict within institutional parameters, which may not threaten stability initially, but will down the line. In cases, such as Spain, where there is no shared vision of a broadly acceptable political future, we can expect that one or more groups will eventually realize that they cannot achieve their goals within institutional parameters, and challenge the structure of the system. It may be, therefore, that ‘holding together’ origins ensure that a federation will be vulnerable to centrifugal forces, making it advisable to hold off on a federal solution until an agreement can avoid the ambiguity that is necessary when the parties do not envision the same political future.