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Date 1990

Type Working Paper

Series Estudios = Working papers / Instituto Juan March de Estudios e Investigaciones, Centro de Estudios Avanzados en Ciencias Sociales 11 (1990)

City: Madrid

Publisher: Centro de Estudios Avanzados en Ciencias Sociales

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THE POLITICAL TRANSITION OF
THE FRANCOIST *CORTES*:
TOWARDS THE LAW FOR POLITICAL
REFORM (1975-1976)

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Estudio/Working Paper 1990/11

July 1990

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1. INTRODUCTION

When General Francisco Franco, Head of the Spanish State since 1939, died on 20 November 1975, he left a political will in which he wrote: “All is tied up and well tied up”. He thanked “all those who have collaborated in the great enterprise of making a united, great and free Spain”, and asked, “in the name of the deep love I feel towards our *patria*... to maintain unity and peace and to surround the future King of Spain... with the same affection that you have shed upon me... to never forget that the enemies of Spain and of Christian civilization are always on the alert”.

Only 363 days later, on 18 November 1976, the Francoist regime had legally died. On that date the *Cortes* approved a Bill of Political Reform that held out the promise of radical change in the political system. In article 1, it established the sovereignty of the Spanish people: “Democracy... is based on the supremacy of the law, expression of, the sovereign will of the people. The fundamental rights of the human being are inviolable and bind all the organs of the State”, and, in art. 2 it called for a new Parliament similar to those existing in other Western democracies.

In this essay, I will try to show the successive steps that preceded and, partially, predicted that outcome. By passing the *Ley para la Reforma Política* (LRP: Law for Political Reform) the *Cortes* paved the way for a radically different system of political representation which, in fact, was to put an end to its existence. The question I try to answer may therefore be formulated as follows: why did the *Cortes*, a body composed of groups which benefited from the Francoist system, vote so overwhelmingly to abolish itself?

To solve this enigma, I will firstly examine the debates in the *Cortes*, to try to ascertain what reasons were adduced to explain the behavior of the legislators, i.e., how they perceived what they were doing. Secondly, I will look closely at the votes inside the *Cortes* to see which groups supported the reform and which did not. Finally, I will endeavour to point out some factors which may help to explain the differences among groups.

2. THE FRANCOIST CORTES

Within the institutional framework of the Francoist regime, the *Cortes* or Parliament was designed to be an instrument of collaboration with the Head of State. According to the Law of the *Cortes*, in force since July, 1942, and reformed by the *Ley Orgánica del Estado* (Organic Law of the State) of 1967, the interplay of opinions - within the unity of the regime - was supposed to play an important role in the formation of Spanish Law. That is to say, although the overall power to enact general laws belonged to the Head of State, from 1942 onwards the *Cortes* was designed to embody a “principle of self-limitation for a more systematic institutionalization of power” (Preamble).

More crudely put, the *Cortes* was a parody of a Parliament, which was not expected to challenge the government. Its members, known as *procuradores*, were arbitrarily selected by Franco or elected by corporative organic suffrage and numbered about¹ 530. Among them were all the members of the Government (whose Prime Minister² was Franco himself until the early 1970s); 100 members of the National Council of the *Movimiento* (the single party which was to act as the ideological watchdog of the regime), of which 40 were directly appointed by Franco, 6 by the President of the Council and 52 by the provincial organizations; up to 25 other individuals, also appointed by Franco; the Presidents of the 5 major institutions of the country (Supreme Court, Council of State, etc); the governors of all Spanish Universities (18, in 1976); representatives of 6 cultural institutions, of 23 Professional Organizations (Doctors, Economists, etc); 150 representatives of the *Organización Sindical* (the single vertical union, which grouped together workers, employers and technicians, in every sector of production); 111 representatives of

¹ This number was not constant, because of the continuous changes of *procuradores* which took place in every session: in fact, the *Diario de Sesiones* always begins with the changes in the composition of the *Cortes* that have taken place since the last meeting. Moreover, because of the organic composition of the *Cortes*, some *procuradores* held seats in more than one capacity, and “this makes the classification of some members slightly arbitrary” (Linz 1973: 207).

² In this paper, I will translate the Spanish *expression Presidente del Gobierno* (leader of the government) into Prime Minister. This figure was fused with that of Head of State from the Civil War until the appointment of Carrero Blanco in June, 1973.

the Local Administration, and 104 “family representatives”, elected by the heads of family and married women (Art. 2 of the Law).³

Although these *procuradores* were never likely to be very independent given the method by which they were chosen, any room for independent behavior on their part was very limited. Those appointed by the Head of State could be dismissed by him. Those whose positions were linked to any office (in local administration, the unions, etc.) lost their seats when they lost office and the Government had great power with respect to appointments and dismissals at every level of the administration. This was, evidently, a Parliament under absolute control, a resonating chamber for Francoist speeches, whose members were used to responding, almost automatically, to patriotic clichés.

3. THE POLITICAL CONTEXT

The approval given to the Law for Political Reform can only be understood in the context of the broader political evolution taking place in Spain in the 1970s. The death of Franco was simply the culmination of a decade of social change: the left returned from exile; ideological debate began to appear in the mass media; the spirit of reform was in the air - and the Cortes finally had to debate it.

Carlos Arias Navarro, the successor to Admiral Carrero Blanco (assassinated in December, 1973, by the Basque terrorist organization ETA) had been the last Prime Minister under Franco and was also the first under the Monarchy. His initial proposals for political reform were quickly outrun by events. Despite securing approval for some reform measures, attributable essentially to the main reformist ministers in his cabinet (Garriges, Minister of

³ In spite of the restrictions (limited census, conditions to be candidate, limited number of seats), the familial representatives played a dynamic, active and some times even independent role in the Cortes (Díaz-Nosty 1972: 61, 67, 148). A classification of the *procuradores* made by *Cuadernos para el Diálogo* (n. 50, Nov. 1967) showed the following data: appointed 155 (27%), elected within the *Movimiento* 55 (10%), elected indirectly through *Sindicatos* and local government 246 (44%), elected directly by heads of household and married women 108 (19 %) (Quoted by Linz 1973: 254).

⁴ I will refer later to some of those measures, the Law of Assembly and the Law of Political Associations.

Justice, and Fraga, Minister of Interior), Arias ultimately failed to find a viable formula for political transition to democracy. His attempts to honor both the past and the future at the same time stretched political reason and reality too far. In a major speech to the *Cortes*, Arias praised the “long guidance of Francisco Franco, *Caudillo* (leader) unquestioned and unquestionable of our people”; understood the “wise administration of the democratic plenitude” required for “legitimate historical reasons” and spoke of a “Spanish democracy”, developed “from our necessities, experiences and way of being” (*Diario de Sesiones del Pleno de las Cortes Españolas* [DSC], X Legislatura, n. 23: 3, 5, 6). However, the gulf between government and opposition was too wide to be bridged with such rhetoric, and in the new political context, something had to give way: Arias was ultimately forced to resign and, with him, continuity as a form of transition had failed.

Two other forms of transition had appeared as possibilities during the last years of Franco. The democratic opposition, ranging from some Christian Democrats to the extreme Left, demanded a “political rupture”, i.e., an immediate break with the Francoist past as the precondition to establishing a democratic system. This approach implied the creation of a government that would reinstate public freedom, grant an absolute amnesty for political offenses and organize freely contested elections.

A third, middle route to democracy was that of reform: its advocates were the reformists from the ranks of Francoism and the most moderate groups that later coalesced in the *Unión de Centro Democrático* (UCD). They basically shared the aims of the *rupturistas*: i.e. the achievement of a pluralist democratic system, but disagreed on the best means for achieving it, because they preferred a transformation from above, one that would respect the legislation already in force.

As potential successors to Arias there were two clear favorites: Areilza, a liberal seen as the most progressive minister in the Cabinet; and Fraga, who had lost some of his reformist reputation as a result of his obsession with “law and order” as Minister of the Interior. The procedure whereby a new prime minister was chosen was one in which the “Council of the Realm” (*Consejo del Reino*), a highly conservative body, filtered all the candidates and then

offered a *terna*, a list of three candidates, from which the King selected one. All three of the candidates they chose were former Francoist ministers, and none of them was seen as a liberal. When the king chose Adolfo Suárez, public disappointment and dismay were evident: despite a brave speech to the *Cortes* defending the Law of Political Associations, Suárez's political background did not seem to reflect a liberal personality. His entire political career had been forged in the *Movimiento*, for which he was eventually appointed as General Secretary, with the rank of Minister. When the first political associations were permitted in 1974, he promoted, and became the chairman-coordinator of, the *Unión del Pueblo Español* (UDPE), which "grouped together men and trends identified with the values, principles and institutions of the State founded by Francisco Franco... in agreement with the fundamental idea of achieving the essential continuity of the institutions of the regime."⁵

It is small wonder then that reaction to the appointment was so negative: shares fell drastically on the three Spanish stock exchanges; Ricardo de La Cierva, a conservative historian who later became one of Suárez's ministers, wrote a celebrated article in El País entitled "What an error, what an immense error!", and the same disappointment was felt among the political opposition and foreign observers.⁶ The best-known reformers in Arias' cabinet actually refused to serve under Suárez, who was then obliged to form a government made up mainly of young, right-wing Christian Democrats, who had united in an intellectual group under the pseudonym of "Tácito", and supported reformist policies in articles for the Catholic paper Ya.

The new ministers were almost unknown. They were considered "second-rank politicians, with limited experience and almost no credibility."⁷ The new government was popularly

⁵ Report submitted by the UDPE for governmental approval, quoted by Ortega Díaz-Ambroña 1982: 26. After the appointment of Suárez as president of government, the UDPE retained its continuist tendency, e.g., calling for its members to participate in the homage to Franco on the first anniversary of his death (Ya, 11 November 1976, p.13).

⁶ E.g., cfr. the liberal weekly magazine Cambio 16, n. 240, 12-18 of July 1976: 17-18.

⁷ Cambio 16, n. 241, 19-25 of July 1976: 14-15.

known as “the government of the PNNs,”⁸ because of its intellectual background and lack of practical experience. But this was the government that secured, in barely three months, approval for a political reform designed “to throw the dictatorship out of the window.”⁹

4. THE CORTES IN THE TRANSITION: Towards Political Reform

Considering the composition of the Francoist *Cortes*, it is not difficult to guess that any attempt at political reform would encounter severe opposition there. This was evident even before Franco’s death. In fact, when Arias Navarro was appointed Prime Minister, his very limited proposals for reform, which gave rise to what was called “the spirit of February 12th,”¹⁰ were strongly attacked by what was beginning to be known as the “bunker”. José Antonio Girón, for instance, a former Minister of Labor under Franco, member of the National Council of the *Movimiento*, the Council of the Realm, and one of the leading union leaders, attacked the *aperturista* collaborators of Arias as “false liberals” and “infiltrators” plotting to undermine the regime.¹¹

However, this faction was gradually losing power. The opening of Spain to the Western capitalist economy led to rapid social change which sooner or later had to have political consequences. Urbanization, industrialization, and higher standards of living were not indefinitely compatible with authoritarian political structures. The conflict,¹² latent under

⁸ The PNNs, or *Profesores No Numerarios* are one of the lowest ranks among university professors.

⁹ Cambio 16, n. 260, 29-Nov-1976: 11.

¹⁰ Because they were formulated in a speech on that date.

¹¹ Article published in Arriba, 27 April 1974, quoted by Ortega Díaz-Ambrona 1982: 23.

¹² For an overview of the changes in Spain, see Linz 1973: *passim*. This author stresses the contradiction between the political system, whose basic boundaries had not changed, and the “giant changes within the system” (cfr., v.gr., pages 253, 255). In 1973, Linz is still quite pessimistic about the prospects of a peaceful transition (see p. 255-256), although he expresses his “feeling” and hope that, ultimately, there will be a “convergence of (the Spanish) political institutions with those of the rest of Western Europe” (p. 258).

Franco, carne rapidly to the surface after his death. I will trace its manifestations in the debates of the *Cortes*, concluding with a discussion of the **LRP**.

The first piece of legislation announcing political reform after Franco was the Law of Assembly, which replaced a Decree of 20 July 1939, i.e. enacted only four months after the end of the Civil War. In the debate in the *Cortes*, which took place on 25 May 1976, one of the members of the parliamentary commission in charge of the bill argued that it was just “a piece destined to fit into a whole new edifice... a step forward towards that aim” (DSC, n. 26: 4). Fraga, as Minister of the Interior, argued that the acknowledgement of the right to assembly should not be seen as an unavoidable evil, but as an essential instrument to reach social cohesion “vis-á-vis the frustrating *inmovilismo*, based on distrust towards our magnificent people, on hidden egoisms; and vis-á-vis utopian, adventurist or resentful attitudes of this or that group of *rupturistas* or revolutionaries”.

The bill was passed almost unanimously: only 4 *procuradores* voted against it, while 25 abstained. The arguments in favor seemed too weighty to merit any significant opposition. In any case, this could not really be seen as a liberal law. Anyone who wished to hold a public meeting with more than twenty people had to communicate it to the Civil Governor of the province; and if someone wanted to demonstrate, they had to ask for government approval at least ten days before the event was due to take place, and the government could then change the place in which the demonstration might be held, or even ban it altogether.

A second step toward reform was taken with the Bill of Political Associations, a name that was intended to include “groups, associations or political parties” (Preamble), which would still be bound by the Fundamental Laws of the Realm (art. 1.3). In this case, the right-wing opposition associated with the “bunker” let its voice be heard. In the parliamentary debate of 8-9 June, 1976 we find some of the arguments that would be repeated in November, when the **LRP** was considered. In defence of the project, the *Ponencia* (the commission of the *Cortes* in charge of reviewing the bill) and Adolfo Suárez, as the Minister who presented the bill, made a variety of appeals:

- a) Sociological. The need to adjust a regime built in the early 1940s to new historical circumstances, was recognized by many legislators, even among the most conservative sectors. They differed primarily about the extent and meaning of the term “reform”. The idea of providing new political structures for a new society was explicit: Meilán Gil, a member of the *Ponencia* and of the “independent group, admitted that the problem was not essentially legal, but political: “I have clearly opted for a constitutional interpretation which favours the progress of our political system, and which best responds to the political situation in which we are living” (DSC, n. 27: 39). Suárez added that “we all have the obligation... of giving to the 70 per cent of Spaniards who have only known a peaceful life the means to keep it” (DSC, n. 27: 105). Otherwise, conflict would be unavoidable: “if the way towards change is not based on legality, what is being generated is just an apparent peace, beneath which subversion nests.”
- b) Formal Continuity. Before a chamber which was used to responding almost automatically to invocations to Franco and his work, to have adopted a clearly reformist position would have been political suicide. Thus one of the major arguments used for this law was that it did not mean a break with the previous constitutional regime. The law was presented as an ordinary one, which did not imply constitutional reform, and whose only purpose, as in the Law of Assembly, was “to develop individual rights which are already acknowledged in the Constitution”. A Constitution which, “in any case, must be safeguarded.”¹⁴ Meilán¹⁵ also used this argument: “this law is not anticonstitutional; it is not a hidden change of the political system... It tries to serve with intelligent respect the Constitution and its Fundamental Principles” (DSC, n. 27: 27 ff). The law does not contravene the constitutional forms of organic representation (through the

¹³ Parliamentary groups were first formed in 1974, when the first political associations, within the framework of the *Movimiento*, were legalized. But they had a very loose organization, and discipline of vote did not exist as such.

¹⁴ E. Sánchez de León, who would later become a minister in the UCD government: DSC, cit, p. 63.

¹⁵ Meilán Gil would later become a member of the centrist UCD, winning a seat in the Congress in 1977 and 1979.

“natural institutions” of family, municipality and union), which could survive with political associations. The issue of “organic” versus “inorganic” political representation has to be considered later in the process of reform. Because this law “allows the formation of the teams. But the great problem of preparing the ground - constitutional reform - and of creating the rules of the game - electoral reform - are still there.”¹⁶

In opposition to the bill, the main arguments used were:

a) Legitimacy of the Francoist State. Raimundo Fernández-Cuesta, an old falangist leader, began his speech with a reference to the origins of that legitimacy. The Spanish state was created by “the sovereign will and the constitutional power which resulted from the struggle (of the Spanish nation) to obtain its social and spiritual unity and freedom”. It was based on Fundamental Principles which were, by their own nature, “permanent and immutable”, as the very Law of the Fundamental Principles of the *Movimiento* declared them,¹⁷ and to accept the proposed law would mean the annulment of those Principles, something beyond the limit of any possible constitutional reform. The material concept of the Constitution as a set of values allows formal modifications, but excludes all change in those values. “The essence of the constitutional system has to prevail over its formal legality” (DSC, n. 27: 10).

b) Substantial Rupture of the Political System. Fernández Cuesta thus based his speech on the idea that the “bill... implies the acceptance of political parties... thus infringing the Fundamental Principles and Laws of our constitutional system”. Considering the VIIIth Principle, according to which any political organizations other than the system of representation defined by the three “natural institutions” of the falangist state are to be considered illegal, the bill is anticonstitutional. To think that organic representation can coexist with political parties is just a deceptive interpretation, or a “legal trick”. It constitutes not mere reform, but a “revolutionary

¹⁶ Pío Cabanillas, a member of the *ponencia* and also a future minister under Suárez, in UCD.

¹⁷ The Spanish Constitution was formed by a plurality of texts called “Fundamental Laws”, enacted from 1938 (Fuero del Trabajo) to 1967 (Ley Orgánica del Estado). The “Law of the Fundamental Principles”, of 17 May, 1958, is the synthesis of all those Fundamental Laws.

rupture.”

What was at stake, as Fernández de la Vega, an old union leader, said, was the very ideological basis of the regime of 18th July.¹⁸ The approval of the bill implied the acceptance of a divisive multiparty system which would put an end to the preached national unity and would evidently be incompatible with all “we considered as definitive” (DSC, n. 27: 16-20). Such a system “will show its incapacity to resist the pressures of Marxism, open or hidden beneath the appearance of national reconciliation... which is the real danger hanging over all of us” (Fernández-Cuesta in DSC, n. 27: 13). c) A third argument was used against the bill from conservative, although less inflexible, positions: some of the *procuradores* who abstained or voted “no” justified their position on the grounds that the new regime of political association would foster only ideological politics, ignoring the politics of interest which was the essence of organic representation.¹⁹

Only one voice, that of Ramiro Cercós, spoke out criticizing the bill as “timid and insufficient” to rule a “new democratic order”, because it referred to Fundamental Laws which responded to aims clearly different from those which govern a democracy. He said that the existence of political parties distinguished democratic regimes, and criticized the very name of the bill as misleading, given that its real object was to legalize parties.²⁰ The same *procurador*, who spoke on behalf of a group of six or seven “whose ideologies are not represented by any group in this *Cortes*”, questioned the legitimacy of the *Cortes* itself and its “lack of representativeness.”²¹

¹⁸ Date of the beginning of the Spanish Civil War, in 1936.

¹⁹ Fernández Nieto, representative elected by the families of Salamanca.

²⁰ And he was not alone on this point. Some other *procuradores*, like Pérez Puga and Iglesias Selgas also called for a change in the name of the law.

²¹ Ramiro Cercós had a seat as representative of the Professional Colleges of Engineers. After the Political Reform, he was elected as “independent” senator in 1977, 1979 and 1982 in his district (Soria). After being the only independent member of parliament elected in 1982, he has been newly reelected in both 1986 and 1989, as a candidate of the socialist PSOE. Some of the other *procuradores* who supported him in his speech occupied political offices under the UCD government.

In the end, the arguments of the government were sufficiently persuasive, although from a formal point of view it seems dubious at the very least to claim that the new law conformed with existing Constitutional principles. The bill was passed by 337 (74.2 percent) votes in favour, 92 (20.3 percent) against and 25 (5.5 percent) abstentions. Only 454 *procuradores*, out of about 530, were present for the voting.

The votes opposing the bill may be analyzed by examining the different groups of *procuradores* existing in the Cortes, whose representativeness was different because of its origins.

TABLE I:

<i>Group</i>	% of the negative votes in the Cortes.	% of "noes" in the group.
-Union Representatives	about 40 %	26 %
-Members of the National Council:	almost 30 %	28 %
a) Appointed by the Head of State		33 %
b) Elected by the provinces		25 %
-Procuradores directly appointed by the Head of State	10 % (9 out of 25)	36 %
a) Appointed by Franco (22)		41 %
b) Appointed by the king (3)		0 %
-Familial Representatives	10% (9 out of 104)	8.6%
-Local Representatives	10% (9 out of 111)	8%

Significantly, the groups which offered less opposition to the bill were those who, having a closer relationship with the citizenry, would be expected to be more responsive. Therefore it may be said that the groups whose representativeness was most doubtful in a pluralist, democratic party system (i.e. directly appointed or linked to the *Movimiento* or to the *Sindicatos*) opposed the bill in greater proportion.

However, the apparently comfortable majority was not so solid: when, on the

afternoon of the same day, the debate on the reform of the Penal Code began, the mood in the *Cortes* had changed. Penal reform was a necessary step towards effective implementation of the Law of Political Associations, because up to that moment, to establish or belong to a political party was a criminal offence. During the debate, it was learned that a local official of the *Movimiento* had been assassinated in the Basque Country. *Procuradores* of the bunker launched a strong attack on the bill, and Arias - who was still Prime Minister - decided to withdraw it, sending it back for re-drafting by the Justice Committee. As a result of this decision, taken against the advice of Areilza and Fraga, in favor of those who did not want to risk a defeat, Spain was left with a law that permitted political parties, and a Penal Code that prohibited them.

The Bill of Penal Reform was finally passed on 13 July. Adolfo Suárez was by then the Prime Minister, and he found, for the very first time, strong opposition. The bill, which outlawed the Communist Party without mentioning it through the formula “parties that, subject to international discipline, want to set up a totalitarian regime” had 245 positive votes (51.3%), 175 negatives (36.7%) and 57 abstentions (12%), totalling 477 votes (90% of the members of the *Cortes*). All the parliamentary groups were divided over it.²²

In early autumn, the proposed Law for Political Reform was sent to the National Council of the *Movimiento*, which had to give its opinion, according to the established procedures for constitutional reforms. The report of the Council was approved on 8 October. In it, the Council asked for the suppression of a preamble that was expressly democratic. Some other points were made: the adoption of the democratic method, “which is not an end in itself”, must not ignore that “there are supreme ideals and interests in the life of a Nation” whose continuity must be guaranteed.²³ A place in legislative procedures for the representatives of social, economic, cultural and professional interests had also to be secured, and the right place to do so was the Senate.

²² Cfr. Cambio 16. n. 242, 1 Aug. 1976: 13.

²³ Report by the National Council of the *Movimiento*. Annexe to the DSC, 21 October 1976, p. 37105-37112.

The electoral system should in any case be set up by the *Cortes*, and not by the Government, and the Council expressed its preference for a majority system. All of these were controversial issues: the democratic opposition, outside the *Cortes*, could not accept a system which would favour those already in power, so they pressed for a proportional electoral system. This was also the criterion suggested by the Government, which preferred to avoid a majority system lest it result in the formation of two powerful and opposing blocks, competing in a zero-sum game. The reformers were also unwilling to let the electoral rules be set by the *Cortes*, which represented Francoist legality. A corporatist composition of the Senate was also a way to secure the continuity of particular interests, and to that extent it was said to contradict democratic principles.

The report was approved by 80 votes to 13, with 6 abstentions. It has been suggested that one of the reasons why the National Council was willing to approve the law was the existence in it of a clause which established that 40 senators (i.e., the same number of National Councillors appointed by the Head of State) would be appointed directly by the King. This may have been seen by many of them as offering a possibility for political survival under a democratic regime (Torres del Moral 1988: 8). The bill was sent to the *Cortes* on 16 November, and the government put all its weight behind it in an effort to assure its approval. What seemed clear was that those who wanted to oppose it, would have to do so without any governmental office, help or sinecure.²⁴

5. THE DEBATE ON THE LAW FOR POLITICAL REFORM

The debate was not easy. It took place from the 16th to the 18th of November. In the same week, the political Left - of course, outside any official institution - called for a general strike on the 12th and the extreme right called for a massive demonstration on the first anniversary of Franco's death, the 20th, while accusing the government of betrayal. As the leading article of Cambio 16 said that week, "Suarez's government is risking everything. On the 12th, part of the opposition (PSOE, PCE, PSP) intends to pull the blanket to the left... on the 20th... the ultra-francoists will try to pull the blanket to the right... In governmental spheres

²⁴ Cfr. Cambio 16, n. 251, 27 Sept. 1976: 14.

there is moderate optimism that the blanket will not tear.”²⁵

In the media, the overwhelming opinion was that the bill was the first step towards effective democracy. As the newspaper Ya said on its first page, Spain had never faced such a profound change in peacetime. It added in its leading editorial: “we do not defend this bill because it is the best of all possible alternatives, but because if it is not passed, there will not be any reform... and it cannot wait one more minute.”

Even the President of the *Cortes*, Professor of Political Law and Permanent Member of the National Council by designation of Franco, Torcuato Fernández Miranda, had taken the democratic side some days before the debate began. In a press conference held on November 12th, he affirmed that Spain faced the possibility of “entering a new future from the basis of present legality and of creating, through the civilized ways of law, a radically different political situation. To consider that this change, because it is substantial, is a *ruptura* is, with all respects, obstinacy.”²⁶ However, the bill had to be passed by a qualified majority of two thirds of the *procuradores* present and voting, and recent precedents, such as the reform of the Penal Code, did not allow for much confidence.

The strength of the bunker, as shown in the voting on the Law of Political Associations, was not great enough to prevent the bill from being passed. The decisive votes would be those of the large group of former ministers and officials who were basically Francoist in sentiment but regarded themselves as less obstructionist than the bunker. At the head of the government was a man who has been described with evident exaggeration but an element of truth as “a card-carrying *franquista*... trusted by others... (who) understood the regime and knew where the power lay... (a man with) few political principles and fewer political ideas” (Gilmour 1985: 151), but extremely skilful in politics. The government decided to use converted Francoists as members of the *Ponencia* in charge of examining the amendments proposed by the *procuradores* and of

²⁵ N. 258, 15 Nov. 1976: 3.

²⁶ Ya, 13 November 1976: 14.

defending the bill in the *Cortes*. Thus the *Ponencia* was composed of a former Minister of Labor, Fernando Suárez, who had also been a *procurador* from 1967 to 1971, and who was appointed by King Juan Carlos as National Councillor; Miguel Primo de Rivera, a nephew of José Antonio (founder of the Falange); a local leader of the Movimiento, Belén Landáburu, who held her seat by familial election; a representative of the local institutions, Lorenzo Olarte; and a representative of the vertical union, Noel Zapico. They thus represented all the main groups in the *Cortes*. All of them were born between 1932 and 1936, so that they were in their early forties, and had not lived through the civil war.

Primo de Rivera, the first to intervene in the debate, criticized the bunker as well as the *rupturistas*, on the grounds that both groups were trying to prevent any peaceful solution. He invoked the “irreplaceable political authority of Francisco Franco”, declaring his “loyalty and... personal devotion” as well as his condition *joseantoniana*.²⁷ In any case, he declared, it was time to let the Spanish people decide for themselves. He explained the guidelines of the proposed reform, and finished by asking for a favorable vote appealing to the emotional memory of Franco and to loyalty towards the king (DSC, n. 29: 6-11).

I will try to summarize the arguments made by the *procuradores* on both sides. They presented three proposals asking for the bill to be withdrawn, and a number of other proposed amendments which focused on different aspects of the bill. Sixteen of the proposals fulfilled the reglamentary conditions necessary to be defended before the *Pleno*, in the debate. Based on their ideological tendencies, they can be divided into different groups:

A) Proposals asking for the withdrawal of the bill

1. One, signed by D. Manuel Escudero, could be considered as a “criticism from democratic positions”. He asked for a more explicit establishment of a parliamentary system, with a government dependent on Parliament, and, to guarantee the purity of general elections, he proposed holding administrative (local) elections before the general ones, thus giving the

²⁷ Follower of José Antonio Primo de Rivera.

electorate a chance to get rid of local bosses who could influence the electoral outcome. However, having made his political criticism clear, he declined to defend his observations in the *Pleno*, giving conditional support to the bill as long as it was not modified in a conservative direction.

2. Two were signed by two of the most representative leaders of the bunker: Blas Pinar and Fernández de la Vega.

B) Partial amendments

1. Six of these could be considered as “democratic.”²⁸ They were signed by the *procuradores* Esperabé de Arteaga, Meilán, Iglesias Selgas, Pérez Puga, Morrondo and Clavijo. Their basic points were the rejection of corporatist forms of representation, the need for a proportional electoral system, the acceptance of a new electoral law made outside the *Cortes* and the need to establish human rights as limits to the binding power of the law.

2. Eight could be considered as “conservative”, stressing some of the points made by the National Council in its report: the need for a majority system, the competence of the *Cortes* to pass the electoral law, attempts to keep elements of organic representation in the new Chambers, equality of powers between the Congress and the Senate, etc.

3. Two more amendments defended “anti-democratic” positions. They were signed by Raimundo Fernández-Cuesta and Martín Sanz.

Many of the *procuradores* responsible for the amendments were, in fact, those who had actively taken part in the debate on Political Associations, so it is not surprising that many of the same arguments were used. From those attacking the reform projects, we again find the following arguments:

²⁸ I quite improperly use the terms “democratic”, “conservative” and “anti-democratic” for the sake of clarifying and classifying the ideological positions. But of course, it is possible to make classifications within those groups. For instance, within the “anti-democratic” positions, it is possible to distinguish some of the “types of semi-opposition” described by Linz (1973: 193-197): those opposed to any transformation of the regime, those who advocate a more perfect realization of its ideology (v. gr., Martín Sanz: see *infra*) etc.

a) The legitimacy of the Francoist system. What was at stake was the institutional framework “which has made it possible for Spain to put an end to three hundred years of decadence” (Fernández de la Vega, in DSC, n. 29: 18). That very legitimacy was even seen as a factor of risk because the Spanish people, trusting the Francoist institutions which present the proposal, may be tempted to approve it without knowing that what it is going to do is to destroy those very institutions (DSC, n. 29: 38).

b) Substantial rupture of the political system. The bill contradicted the Principles of the *Movimiento* and conflicted with “the political philosophy of the Spain which arose from the Crusade” (Pinar, in DSC, n. 29:12-13). Thus it was not a reform but a break, because the important thing was the outcome, and not the means to achieve it. It was thus a political argument, linked to the legal question of the very possibility of reforming “permanent and immutable” principles. There was another argument, a “moral” one: all the *procuradores* had sworn to uphold those Principles, and so they could only be modified by those who had not taken such an oath (DSC, n. 29: 16). On this point, the position of the bunker was almost the same as that held by the left-wing opposition outside the Parliament: the Francoist *Cortes* could not itself make any real change.

Going even further, Fernández de la Vega blamed the “ideological decline of the State” on the political evolution of Spain since 1957, which had marked the beginning of a series of “capitalist deviations”. He was, in many ways, quite accurate, but what he intended was not to adapt the system to reality, but to control reality in such a way that it could not jeopardize the system. And Fernández-Cuesta, after attacking the divisiveness of political parties, insisted on the danger posed by communism which “is the real challenge to the free world” (DSC, n. 29: 81-82).

Martín Sanz, a union representative, opposed the bill from a position which was critical even of the Francoist regime: if it had been a truly corporatist system, if organic representation had been properly applied, the changes reflected in the bill would not have been necessary. Referring to the debate on the electoral system, he pointed out that “what all (the *procuradores*) are wondering is by what method they can return here” (DSC, n. 29; 184 ff).

The *Ponencia* and Landelino Lavilla, as the Minister who defended the project, also made points that are by now familiar:

a) Sociological. Historical change had to affect the Constitution. Primo de Rivera was absolutely correct when he remarked in his speech: “the *Ponencia*, all of us who did not fight the war” think it is time to adjust the political system to historical circumstances.

b) Formal continuity. The real question was, as Fernando Suárez said, whether the Fundamental Laws could be changed. And the answer was “yes”. The Law of Fundamental Principles, whatever it said, was just another Fundamental Law. Thus it could be reformed according to the procedures established in the Fundamental Laws. The bill was, of course, anticonstitutional, because by definition every proposal to change the Constitution is anticonstitutional as long as it had not been approved (Zapico, in DSC, n. 29: 141-142).

The bill clearly respected legality. On the one hand, the law followed the procedures established by previous laws. On the other hand, “it does not intend to repeal the constitutional order, but it is a new piece in the whole” (Lavilla, in DSC, n. 29: 194). Consequently, having taken an oath to uphold the Francoist system was not a valid reason to oppose the bill, because it was intended to respect the system as a whole, including its procedures of reform. In conclusion, the reform would lead to a democratic regime which was the natural consequence of Francoism, because Francoism had caused such social, economic and cultural change in Spain that it had created the social preconditions for a successful democracy (Zapico, DSC n. 29: 134-136).

Everything seemed to be in favor of the government. Only during the second day of debate, when one leading member of a conservative alliance of former officials of Franco threatened to abstain if their amendments were not voted on separately before voting on the bill as a whole, was there some tension.²⁹ But, in the end, the government’s acceptance of some principles which modified the absolute proportionality of the electoral results - involving a minimum threshold of votes to win a seat, and a minimum of deputies in any constituency – resolved the problem. The result of the voting was:

²⁹ Martínez Esteruelas, a former Minister under Franco and one of the leaders of *Alianza Popular* which began to form in those days, and to which were allied about 100 *procuradores*. It could thus have prevented the required figure of two thirds of the votes.

-Number of *procuradores*: 531.

-Number of *procuradores* who voted: 497 (93.6%).

Absent: 34 (6.7%).

-Number of votes required for the bill to be passed: 330.

-Affirmative votes: 425 (85.5%).

-Negative votes: 59 (11.8%).

-Abstentions: 13 (2.6%).

In total, 80% of the Chamber supported the law, while the non-supporters (noes, abstentions, absences) were 20%.

By looking at the different groups which made up the *Cortes*, it is possible to confirm the idea that those whose seats were least attributable to some kind of popular election were those whose opposition was greatest; and almost all those who voted "no" to the political reform had previously voted "no" to the Law of Political Associations (LAP). It is significant that none of those who opposed the LRP had supported the bill on parties. The bunker was the only group that opposed political reform in the *Cortes* (Table II).

TABLE II:

Vote in LAP:		Vote in LRP		Vote in LRP:		Vote in LAP	
		No	Abstent.			No	Abstent.
No		53	5	No		53	1
Absent		5		Absent		14	2
Abstention		1	6	Abstention		5	4
Yes		0	2	Yes		20	17
TOTAL		59	13	TOTAL		92	24 ³⁰

Thus we can say that the government succeeded in reducing the strength of the bunker to a minimum. Those who maintained their opposition to democratic reforms

³⁰The other abstention in June was that of the former *Presidente* of the *Cortes*, the Permanent National Councillor Alejandro Rodríguez de Valcárcel, who had died that summer.

were grouped as follows:

TABLE III:

Group	Number	Absent	Abstent.	Non-Supporters		
				Noes	No.	%
1. National Councillors.	100	5	10	18	33	33.0
a) Permanent (Appointed by the Head of State)	40	3	3	11	17	42.5
b) Elected by provincial organizations.	60	2	7	7	16	26.6
2. Appointed by the Head of State	25	2	-	8	10	40.0
a) By Franco	22	2	-	8	10	45.4
b) By the King Juan Carlos	3	-	-	-	0	0.0
3. Vertical Unions	150	19 ³¹	2	19	40	26.6
4. Local structures	111	2	-	4	6	5.4
5. Familial representatives.	104	4	1	8	13	12.5
6. Professional representatives	23	-	-	2	2	8.6
7. Universities	18	2	-	-	2	11.0
8. Major Public Institutions	5	-	-	-	0	0.0
9. Cultural Institutions	6	-	-	-	0	0.0

As we can see in table III, the rate of non-supporters was clearly over the average in those groups whose political base was called into question: appointed by the Head of State, elected by the *Movimiento* or the *Sindicatos*. On the contrary, the groups which more heavily depended on the government (Universities, Cultural and Public Institutions), and those whose political base was closer to citizens (familial and local

³¹It may be significant that, out of those 19 absent, 11 had opposed the LAP, 3 had not voted in June and one more had abstained. In this regard, *Cambio 16* (n. 259, 22 November 1976) spoke of an "opportune trip made by 9 *procuradores sindicales* (known for their continuist positions)... admittedly influential in their sphere... (which) made the way easier for Mr. Suárez". On this point, an interview with José Solís Ruiz, former Minister and head of the syndicate, and brother of one of the *procuradores* who were not present in the voting, denied any such intention. It was probably due, he thinks, to some scheduled session of the International Organization of Labour. But in any case the data about their opinion in June makes credible the interpretation given by *Cambio 16*.

representatives, who were, in general, people well known in their cities or provinces and could reasonably expect to continue their political career under democratic conditions) show rates of opposition under the average. Particularly meaningful is the case of the military men: there were 28 of them in the *Cortes*. In this group, 13 voted no to the LRP, among them, 7 Lieutenant-Generals, and one General. Another was absent, the Admiral Nieto Antúnez, a former Minister of the Navy. 14 others (i.e., only 50%) supported the bill: 4 were members of the government - so that they had no alternative, 2 were Lieutenant-Generals, and another 5 were not in active military service (they were lawyers, economists...). The opposition of the top military seems clear.

Several factors can thus be adduced to explain such an overwhelming result:

-The members of the *Cortes* were not really accustomed to opposing the government. Although during its existence the *Cortes* had, in fact, opposed some bills,³² its composition made it highly unlikely that it would oppose any politically important initiative. In this case in particular the government used all the means at its disposal to ensure that the bill would be passed.

-The composition of the *Cortes*, although more or less controlled, had changed profoundly in the last years of Francoism: it is significant that all the members of the *Ponencia*, like almost all the members of the government, belonged to a generation which “did not fight the war.”³³ Thirty-six years after the end of the “crusade” which had provided ideological legitimacy for the Francoist regime, most of the political elite belonged to all those sectors of population which had not lived through it, and therefore they were not as inflexible as the previously dominant groups.

³² An interview with J. Solís throws some light on this point: the bills were widely discussed, sometimes even defeated or withdrawn, especially if they encountered a conflict of interests (e.g., he spoke of syndical opposition to some bills). But it seems as if any opposition was due only to conflicts of interest within the different groups, because there was no real possibility of political dissidence by the institution as a whole. In this regard, see also Linz 1973: 205-206.

³³ In fact, there was a greater renewal of the political elite “than we might have expected, given the continuity of the regime” (Linz 1973: 254-255).

-It is also interesting to consider the political careers of those *procuradores* who formed the last *Cortes* before the general elections. When Martín Sanz³⁴ referred to the self-interest of the *procuradores*, he was probably right in a number of cases. I have already pointed out how the groups whose political base was closer to citizens, who were more responsive to social changes and thus more likely to survive under democratic rule: i.e. local and familial representatives, supported reform in a greater measure, while those more directly dependent on particular constituencies tightly linked to the regime -*Movimiento, Sindicatos*- or appointed by the Head of State showed greater opposition. In fact, some 80 of the *procuradores* were among the 594 deputies and senators elected in the 1977 general elections. And the data shows a much higher rate of “political survival” among those who actively pushed the reform.

Of those who voted “no”, only Blas Piñar won a seat as a deputy in the 1979 general elections. He is still the leader of the ultra-right group *Frente Nacional* (National Front), which received some 60,000 votes in the 1989 European Elections. Raimundo Fernández Cuesta is still the leader of the Falange, but this group has never won a seat in the new democratic Parliament. Therefore, almost all the *procuradores* who survived the transition voted “yes”. In the 1977 elections, out of the 16 deputies of the rightist *Alianza Popular*, only 5 were not in the last Francoist *Cortes*: there were 5 former National Councillors, 3 familial representatives, one local representative, 1 appointed by the Head of State and one, Fraga, was not a *procurador* at the time of voting on the LRP, because he had lost his ministerial office.

Among the 40 senators appointed by the King to the first democratic legislature (1977-1979) we find, not only well-known personalities from different fields of Spanish life;³⁵ but also former *procuradores*: Belén Landáburu and M. Primo de Rivera (members of the *Ponencia* of the LRP), Torcuato Fernández Miranda (president of the *Cortes*), Oreja, Lavilla, Osorio, Martín Villa, Abril Martorell, García López (ministers under Suárez). Among the 35 UCD deputies and senators who had been *procuradores* in 1976, we find names such as Pérez Puga, Gabriel

³⁴ See supra.

³⁵ Among them Camilo J. Cela, awarded with the 1989 Nobel Prize for Literature.

Cisneros, Esperabé de Arteaga, Meilán, Sánchez de León... who actively supported the LAP and the LRP (leaving aside those who were ministers at that moment).

Many of these individuals lost their seats in 1982, when the UCD collapsed. But, at the same time, others returned to political life, mainly as members of AP. Even now, we find Fraga as president of the *Partido Popular*, the new name of AP since January 1989, with people such as M. Oreja, Martín Villa, Pío Cabanillas or Fernando Suárez in leading positions.

Of course, in the leftist parties there were no former *procuradores*: apart from the particular case of Ramiro Cercós, to whom I have already referred, only J.M. Socías Humbert, who was a *procurador* in 1976 as Mayor of Barcelona, reached the first democratic *Cortes* in 1977, appointed by the King, and registered in the group of "Left of the Catalonians". He was not reelected in 1979.

The new organization of the Autonomies has also allowed some regional figures to stay in political life: Lorenzo Olarte (member of the *Ponencia* of the LRP) is now the leader of the Government in the Canary Islands, as a member of Suárez's CDS. Miguel Ramón Izquierdo (*procurador* in 1976 as Mayor of Valencia) is today one of the leaders and, from 1986 to 1989, the only deputy of the regionalist *Unió Valenciá*,³⁷ which also has a number of representatives in the Assembly of the *Comunidad Valenciana*. Similar is the case of Gómez de las Rocas (local representative of the province of Zaragoza in 1976), who is now the leader of the *Partido Aragonés Regionalista*, and President of the Autonomy of Aragón. Gómez-Franqueira, who died in 1988, was behind *Coalición Galega*, and Sánchez de León was linked to EU (*Extremadura Unida*). All of these were centre-right groups, frequently in coalition with the Popular Party.

³⁶ In the last general elections (October 1989), the candidate of the *Partido Popular* was José María Aznar, a thirty-six years-old politician, who will presumably succeed Fraga in a party congress to be held in the first months of 1990. Fraga has won the regional elections in Galicia, held on 17 December 1989, and will become President of that autonomy.

³⁷ Party which won two seats in the 1989 general elections.

6. CONCLUSION

In summary, it may be said that the institutional transition was eventually supported by almost all the groups who were present in the Francoist *Cortes*. Several reasons explain that result:

1. Institutional inertia tended to give support to government proposals.
2. The renewal of the political elite reflected the profound social changes that had taken place in Spain since 1939.
3. The political base of the different groups provided them with widely varying opportunities for political survival in a democratic, pluralistic system.

Most significantly, the military - whose institutional inertia differed from that of the *Cortes* as a whole, whose elite was formed precisely by those men who had fought and won the civil war, whose possibilities of influence in a democratic regime would be drastically reduced - was the only group which failed to support the LRP. All the others, to a greater or lesser extent - which can also be ranged according to those same criteria - supported the *lav*.³⁸

The Spanish political opposition outside the *Cortes*, who negotiated with the

³⁸ These same factors seem to play an important role in other political transitions to democracy. It is possible they are to be found in processes like the evolution of the Eastern European countries. There, the disintegration of the Communist Parties - caused by an exogenous factor, the political evolution in the USSR - has put an end to the political will and instruments which had maintained unity in the regime for some forty years, the time necessary for completely replacing the social elites. And it is showing the lack of resistance of the National Assemblies facing radical changes; the rapid fall of the old historical leaders, replaced by others whose ideological commitment seems, in comparison, to be minimal; the importance of future electoral perspectives in facts like the affirmation of autonomy of "satellite parties" in Poland, the GDR, or Czechoslovakia; the adjustments in the Communist parties in Poland, the GDR, Hungary, etc. With regard to this point, it would be useful to keep in mind the different consequences of having a presidentialist system (which may operate as a zero-sum game) or a parliamentary one (which allows coalitions and reduces the costs of losing), as described by Linz (1984: *passim*). The Army may also play a conservative role, at least in countries like Czechoslovakia, where the events of 1968 may be interpreted as a "renewal of the ideological commitment" by some sectors, or in the USSR itself. But in the case of the USSR, the analysis must be different taking into account factors such as the national roots of the Revolution and its role of "watchdog" of the fundamental values of communism, which may have kept a higher level of ideological consciousness during a longer period, making it possible for new elites to be raised on the same ideas.

government such points as the electoral system, did not support the LRP, but it did not oppose it either. In the referendum which had to be held before the constitutional reform came into force, the left asked for abstention. But, in conditions which were not democratic at all, because of the one-sided use of the media, the pressures exercised by the government, etc (see Gilmour 1985: 158-161), the reform was overwhelmingly approved by the electorate,³⁹ in an even greater percentage than in the Cortes:

-Voters: 77.7%; Abstention: 22.3%.

-Affirmative: 94.1%.

-Negative: 2.5%.

-Blank: 3%.

-Null votes: 0.3%.

³⁹And this could also be the results of voting in Eastern countries, as the figures of electoral experiences seem to point out in Poland, Hungary and the USSR itself, where political opposition has up to now been excluded from any official institution.

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