

**BEFORE THE PACT:
THE EARLY STAGE OF THE SPANISH TRANSITION TO DEMOCRACY**

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Abstract

The Spanish transition to democracy is a landmark in the contemporary field of democratisation studies, and is widely seen as a typical case of negotiated transition. An impressive amount of literature has assessed the strategies and behaviour of the main actors during the transition, as well as during the subsequent process of democratic consolidation. The pact, as a mode of transition, has been extensively linked to the success of the democratisation process. Starting from a temporal segmentation of the transition process, this article suggests that post-Francoist reformers exerted a relatively high degree of control over the content and speed of political change during the early stage of the transition; only after the first free elections was the opposition able to determine the initiation of formal negotiations.

Keywords: Spain, political regime, authoritarianism, democratic transition, modes of transition

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Introduction

On 23 October 1976, representatives of a large number of Spanish centre-left opposition forces convened in the Turquoise lounge of the Eurobuilding Hotel in Madrid, in order to create the *Plataforma des Organismos Democráticos* (POD), a loose alliance whose aim was to coordinate the opposition's reaction to the democratisation moves initiated by the heirs of the Francoist regime. It was during this meeting that the leader of the Spanish Communist Party (PCE), Santiago Carillo, coined the term *ruptura pactada*: the peaceful road to democracy would be based on negotiations, rather than on the general strike.¹ This new strategy was bound to allow the opposition to play a bigger role in a transition process that had been so far managed by the Adolfo Suárez government and its allies and supporters within the regime.

The concept of *ruptura pactada*, sometimes juxtaposed to *reforma pactada*, has been influential in both political pronouncements and theoretical analyses of the Spanish transition. In fact, the entire process has often been placed in the category of negotiated transitions, although from a temporal perspective the generic pact does not cover, either temporally or conceptually, the entire interval of the Spanish democratic transition.

In this study, I dwell on the first stage of the transition, beginning with the death of Francisco Franco, on 20 November 1975, and ending with the foundational elections of 15 June 1977. I argue that this interval was politically dominated by the regime elites, in terms of control over the content and pace of the political change. They were able to avoid both excessive concessions to the centre-left opposition, and a dangerous hard-right reaction. As the change ultimately originated in the regime, the post-Francoists reformists were able to exert an overwhelming influence over the content and pace of the process of change, during its first stage. The Law on Political Reform and the electoral law, as well as the timing of the free legislative elections, tend to support this argument.

However, the strength of the opposition forced the government to consult it during the process, and later allowed it to gain sufficient electoral support to deny the regime reformists an outright parliamentary majority. The subsequent constitutional, social and nationalities pacts come as a direct consequence of the reformists' need for support, and of the centre-left opposition's conditional willingness to provide it. This conjunction ensured, according to most of the analysts, a swift and comprehensive completion of the Spanish transition, with the conclusion of the Moncloa Pacts in the field of economic and social policy (October 1977); the adoption of the new Constitution, following the referendum on 6 December 1978; and the agreement on regional autonomy (1979).

¹Santos Juliá, "En torno a los proyectos de transición y sus imprevistos resultados", in Carmen Molinero (ed.), *La Transición, treinta años después*, Barcelona, Ediciones Península, 2006, available at http://santosjulia.com/Santos_Julia/2005-09_files/En%20torno%20a%20los%20proyectos.pdf

Transition and consolidation

Gerardo Munck has noted that analysts often “disaggregate” the concept of political regime, in order to conduct in-depth analyses of regime change, such as democratisation. It is in this context that the concepts of “transition” and “consolidation” acquire meaning: “transition” refers to the processes connected to the replacement of the old regime by a new, democratic one, while “consolidation” covers issues pertaining to the operation of the new, democratic regime.²

Following Robert M. Fishman, the regime is defined here as a “formal and informal organisation of the centre of political power, and of its relations with the broader society”.³ The state is a “(normally) more permanent structure of domination and coordination including a coercive apparatus and the means to administer a society and extract resources from it”.⁴ A state may survive successive regime changes, though there may be cases when a regime is able to cling to power, despite a crisis in the state structures. One of the main issues relates to the individuals who hold positions of leadership and control in regimes and states, respectively. “The military, a central institution in any state, is quite marginal in some authoritarian regimes. Without questions, official parties in authoritarian systems are part of the regime, but it is not at all clear that they should be viewed as part of the state. Intellectuals, policy advisers, and journalists, as well as former government officials... all may be part of the political community in an authoritarian regime, even if they hold no state office or duty... By contrast, many centrally important state actors – for example, the judiciary and the civil service as well as the military – play little or no role in regime politics in non-military authoritarian regimes such as Franco Spain”.⁵

Munck argues that a two-dimensional disaggregation between a procedural and a behavioural dimension became standard in the literature. The former points to the procedural rules that determine: 1) the number and types of the actors that are given access to the main governmental positions; 2) the methods the actors use in order to accede to those positions; 3) the rules that are followed in the making of binding decisions⁶. The latter is important because those rules shape the political interactions only inasmuch as the actors comply: for a political regime to exist, there must be a strategic acceptance of the rules by all of the major actors, and no normative rejection of the rules by any of them.⁷

²Gerardo L. Munck, „Disaggregating political regime: conceptual issues in the study of democratization”, Working Paper 228, Kellogg Institute for International Studies, University of Notre Dame, 1996, p. 5.

³ Robert M. Fishman, “Rethinking State and Regime: Southern Europe’s Transition to Democracy”, *World Politics*, vol. 42, no. 3, p. 428.

⁴ *Ibid.*

⁵ *Ibid.*, p. 429.

⁶ Gerardo L. Munck, *op. cit.*, p. 7.

⁷ *Ibid.*, p. 9.

The democratic “transition”, in a narrow sense, covers the time frame between a stable authoritarian and a stable democratic regime.⁸ As the authoritarian regime may show signs of instability and may attempt to placate its opponents within the society long before the actual start of the transition, some theoretical accounts include a preparatory stage of “liberalisation” which is not an integral part of the transition, but may nevertheless herald its beginning.

The transition is no longer defined by the norms, procedures and predictable behaviour associated with the old regime, but rather by conflicts over norms, procedures, and their impact on behaviour.⁹ One of the main assumptions in the literature is that transition is a “critical juncture”, characterised by a high degree of uncertainty. Analysts focus on actors and their strategies devised under uncertainty and incomplete information, on “the contingent consent of politicians acting under conditions of bounded uncertainty”¹⁰. In their view, the salience of structural factors is limited during the transition, but would later increase, as the new regime consolidates. Most of them analysts share Dankwart A. Rustow’s rejection of the approaches based on economic, social or cultural “preconditions” to democracy, grounded in his distinction between the conditions that make democracy possible and those that make it thrive.¹¹ For instance, it is important to differentiate between the conditions that facilitated the initiation of the transition, and those that facilitated its implementation.¹²

According to Terry Lynn Karl and Philippe C. Schmitter, “what the literature has considered in the past to be the preconditions for democracy may be better conceived in the future as the outcomes of different types of democracy.”¹³ However, under the uncertainty of transition, “the decisions made by various actors respond to, and are conditioned by, socio-economic structures and political institutions already present, or existing in people’s memory. These can be decisive in that they may either restrict or enhance the options available to different political actors”.¹⁴

In Richard Banegas’s words, “the central hypothesis, common for this set of analyses centred on the political dimension and on uncertainty, is the following: the origins and the evolution of democratic regimes are determined not so much by the cultural and economic factors, as by the actions and choices of key elites that seek

⁸ Nicolas Guilhot, Philippe C. Schmitter, “De la transition à la consolidation: une lecture rétrospective des *democratization studies*”, *Revue française de science politique*, vol. 50, no. 4-5, 2000, p. 618.

⁹ *Ibid.*

¹⁰ Philippe C. Schmitter, Terry Lynn Karl, “What Democracy Is... And Is Not”, in Geoffrey Pridham (ed.), *Transitions to Democracy*, Dartmouth, Aldershot & Brookfield, 1995, p. 92.

¹¹ Dankwart A. Rustow, “Transitions to Democracy: Toward a Dynamic Model”, *Comparative Politics*, vol. 2, no. 3, April 1970, p. 337.

¹² Donald Share, “Transitions to Democracy and Transitions through Transactions”, in Geoffrey Pridham (ed.), *Transitions to Democracy*, Dartmouth, Aldershot & Brookfield, 1995, p. 236.

¹³ Terry Lynn Karl, Philippe C. Schmitter, “Modes of transition in Latin America, Southern and Eastern Europe”, *International Social Science Journal*, 128, 1991, p. 270.

¹⁴ *Ibid.*, p. 271.

to maximize their interest in a fluctuating institutional environment, and their struggle contributes to the shaping of this environment”.¹⁵

The concepts of „transition” and „consolidation” were developed from the distinction between change and order in the political domain, and relate to three main issue areas. The first one refers to the creation of new rules by the actors, a feature of the transition process; the second one – to the outcome of transition, that is, to the content of those rules; finally, the third one deals with the acceptance or rejection of the rules. Consequently, three major theoretical areas emerged for regime analysts: the modes of transition, the types and sub-types of the resultant regimes, and the degree of democratic consolidation.¹⁶

Although Munck suggested that the “modes of transition” might be more useful in the case of intra-regional comparisons or in comparative approaches where the transitions start from the same type of *ancien régime*,¹⁷ the concept has been more extensively used. It is a helpful instrument, since the effects of essential institutions must not be separated from their origins.¹⁸ Philippe C. Schmitter, one of the main proponents of this type of research, writes that the “modal types [and] strategies for the demise of authoritarian regimes”¹⁹ are defined by the actors that direct the regime change, and by the extent of mobilisation for violence. Elsewhere, Karl and Schmitter look at the strategies of transition (from unilateral recourse to force, to multilateral willingness to compromise) and to the main source of change (elites or masses).²⁰ If the process is largely elite-led and based on compromise, the transition is defined by a foundational pact which improves the chances of democratic consolidation. The pacts generally offer reassurance to key players in the old regime, by restricting the scope of representation and allowing them to avoid retribution and maintain at least some privileges in the new democratic order. Karl and Schmitter write that, in essence, pacts are “anti-democratic mechanisms, bargained by elites, which seek to create a deliberate socio-economic and political contract that demobilizes emerging mass actors while delineating the extent to which all actors can participate or wield power in the future”.²¹

In a review essay on several works on democratization, including the volume on Southern Europe of the five-book series *Transitions from Authoritarian*

¹⁵ Richard Banegas, “Les transitions démocratiques: mobilisations collectives et fluidité politique”, *Cultures & Conflits*, vol. 12, hiver 1993, p. 107.

¹⁶ Gerardo L. Munck, *op. cit.*, p. 11.

¹⁷ Gerardo Munck, “Democratic transitions in comparative perspective”, *Comparative Politics*, vol. 26, no. 3, 1994, p. 361.

¹⁸ Terry Lynn Karl, “From democracy to democratization and back: before *Transitions from Authoritarian Rule*”, Working Paper 45, Center on Democracy, Development, and the Rule of Law, Stanford Institute on International Studies, 2005, p. 30.

¹⁹ Philippe C. Schmitter, “Speculations About the Prospective Demise of Authoritarian Regimes and Its Possible Consequences”, in Geoffrey Pridham (ed.), *op. cit.*, p. 10.

²⁰ Terry Lynn Karl, Philippe C. Schmitter, *op. cit.*, p. 274.

²¹ *Ibid.*, p. 281.

*Rule*²², Robert M. Fishman pointed out the need to differentiate between regime-initiated and state-initiated transitions, an issue he believed had not yet been properly approached.²³ Fishman concludes that, by initiating the transition, the regime might want to avoid a “symbolic rejection” by the society. He explains that in the case of Spain, the return to democracy became the goal of significant sectors within the regime²⁴, while “state actors (with the extremely important exception of King Juan Carlos who, in some sense, represented both state and regime) never moved to advance the cause of re-democratisation: to the extent that they have been a factor at all, they have appeared to threaten the political opening at various points”²⁵.

Who actually initiated the process is a relevant issue in the studies of negotiated transitions, as it is linked to another important question: who shall govern the interim? For Linz and Stepan, there are two alternatives: “The democratic opposition naturally will argue that the authoritarian regime lacks the legitimacy to continue governing, calling for the installation of a wholly ‘democratic’ provisional government. The counterargument is that newly self-defined parties also lack democratic legitimacy; rather, it is one of who shall control many political resources in the period of transition and if the democratic opposition shall have the opportunity to attempt important transformations in the society before elections”²⁶.

For his part, Juan Linz includes among the various possible paths towards democracy the *reforma pactada – ruptura pactada* model, which is relevant since in most authoritarian regimes neither *reforma* (wanted by those in power) nor *ruptura* (advocated by the opposition) can easily take place.²⁷ Referring to the strategies of the two sides, Linz notes that sometimes the transition is facilitated by the fact that the two sides formulate their positions for bargaining purposes, rather than as final stands: “If both positions have comparable power resources, although of different natures, or both are relatively weak because of the apathy of large segments of the population, transition will be possible only through a complex process that involves both reform and *ruptura*”.²⁸ In a later work by Linz and Alfred Stepan, the title of their chapter on Spain is “The Paradigmatic Case of *Reforma Pactada – Ruptura Pactada*: Spain”.²⁹

²² Guillermo O’Donnell, Philippe C. Schmitter, Laurence Whitehead (eds), *Transitions from Authoritarian Rule: Southern Europe*, Baltimore, The Johns Hopkins University Press, 1986.

²³ Robert M. Fishman, “Rethinking State and Regime: Southern Europe’s Transition to Democracy”, *World Politics*, vol. 42, no. 3, 1990, pp. 427-428.

²⁴ *Ibid.*

²⁵ *Ibid.*, p. 430.

²⁶ Juan J. Linz, “Transitions to Democracy”, *The Washington Quarterly*, Summer 1990, pp. 149-150.

²⁷ *Ibid.*, pp. 150-151.

²⁸ *Ibid.*, p. 151.

²⁹ Juan J. Linz, Alfred Stepan, *Problems of Democratic Transition and Consolidation. Southern Europe, South America, and Post-Communist Europe*, The Johns Hopkins University Press, Baltimore & London, 1996, pp. 87-115.

Linz and Stepan acknowledge that in the case of Spain there was a “regime-initiated transition”³⁰ and that, unlike in Portugal and Greece, there were no major external constraints on Franco’s successors to initiate such a change. They argue that regime-controlled transfers can vary in a continuum ranging from democratically disloyal to loyal, in which the former refers to attempts by the regime to constrain the incoming democratically elected government and retain non-democratic features in the new order. “A disloyal transfer is likely to happen when the leaders of the outgoing non-democratic regime are reluctant to transfer power to democratic institutions and the correlation of forces between the non-democratic regime and the opposition is one where the non-democratic leaders retain substantial coercive and political resources”.³¹ However, despite initial fears, the Spanish transfer developed in a democratically-loyal manner, against the background of intense competition, but also cooperation among rival political forces.

A regime-initiated transition

King Juan Carlos I can be placed at the centre of the Francoist regime, as he enjoyed important prerogatives, including some that enabled him to play an important part in the initiation of the democratic transition. From the standpoint of Fishman’s earlier quoted definitions of “regime” and “state”, it is obvious that the King was both part of the “formal and informal organisation of the centre of political power” (the regime), and a state institution. His position at the top of the regime allowed Juan Carlos I to make use of various strategies in order to promote political change. However, as Paul Preston argues, the transition process should not be attributed solely to the king and his advisers: “The very presence of Juan Carlos on the throne was the culmination of a process whereby Franco set out to construct a ‘Francoist’ monarchy to ensure the continuation of his regime after his death. That role was willingly accepted by Juan Carlos, although, in the course of the dictator’s final years, motivated by a healthy instinct for self-preservation, he dramatically redefined his role.”³²

The King was in a position to reassure the old guard and the army by providing “backward legitimation” for the transition process.³³ He was also able to offer reassurance at the most dangerous time for the democratic transition, when the authoritarian regime is already in crisis, but democracy has yet to emerge. For some, the monarchy was in itself endowed with legitimacy, while for others it was

³⁰ *Ibid.*, p. 88.

³¹ *Ibid.*, pp. 71-72.

³² Paul Preston, “The Monarchy of Juan Carlos: from dictator’s dreams to democratic realities”, in Sebastian Balfour (ed.), *The Politics of Contemporary Spain*, London & New York, Routledge, 2005, p. 27.

³³ José María Maravall, Julián Santamaria, “Political Change in Spain and the Prospects for Democracy”, in Guillermo O’Donnell, Philippe C. Schmitter, Laurence Whitehead (eds), *op. cit.*, p. 92.

about to build a new type of democratic legitimacy. The King helped maintain the feeling that an orderly, moderate change was possible.³⁴

Not only the domestic, but also the international opinion favoured reforms and saw them as almost inevitable. While no head of state attended Franco's funeral on 23 November 1975, the coronation ceremony of Juan Carlos I was attended, four days later, among others, by the heads of state of West Germany, France, and the United Kingdom, as well as by the vice-president of the United States.

Juan Carlos was supposed to work together with Prime Minister Carlos Arias Navarro, a member of the Francoist old guard. The King's trusted friend and former mentor, Torcuato Fernández-Miranda, became Speaker of the Cortes and President of the Council of the Kingdom. Met with suspicion by the unofficial opposition and even by reformers within the Movimiento, due to his links with the former Prime-Minister Carrero Blanco³⁵, Fernández-Miranda was nevertheless a supporter of reforms and was able to manipulate the Francoist apparatus in accepting liberalisation and, eventually, democratic change.³⁶

The most significant move undertaken by Arias Navarro's cabinet had been the adoption of the law on political association (10 June 1976), which granted a limited degree of pluralism. The vice-president of the Council of Ministers, Manuel Fraga, was expected to advance a project including the reform of the legislation on assembly and association, the removal from the Criminal Code of the provisions punishing the membership in political parties, as well as a package of amendments to other fundamental laws.³⁷

The vice-president had identified three categories that would not be tolerated under the new legislation: the movements that profess violence; those whose programs are based on separatism; and the Communist Party, labelled as a totalitarian organization. While the first two groups would be barred indefinitely, the Communists would be able to join the process at a later stage; however, they would not be tolerated in the rule-making stage because they were, in Fraga's words, "totalitarian, anti-democratic and Machiavellian".³⁸

Fraga's efforts ended when Juan Carlos I spoke openly about his intentions to bring about a democratic system, during a visit in the United States, in June.³⁹ Under pressure from the King and lacking sufficient political support inside the single party, the Movimiento, Arias Navarro was forced to resign on 1 July 1976. As President of the Council of the Kingdom, Fernández-Miranda was entitled to present the King a list of three names from which the monarch would choose. Among them, Adolfo Suárez González, a young reformer within the Movimiento, who was popular among the moderate, technocratic segments of the regime. He turned out to be the King's choice and became Prime-Minister on 3 July 1976.

³⁴ Javier Tusell, *op. cit.*

³⁵ José María Maravall, Julián Santamaria, *op. cit.*, p. 88.

³⁶ *Ibid.*, p. 86.

³⁷ Santos Juliá, *op. cit.*

³⁸ *Ibid.*

³⁹ José María Maravall, Julián Santamaria, *op. cit.*, p. 81.

As Paul Preston writes: “When Juan Carlos finally felt strong enough to replace Arias in the summer of 1976, Torcuato also used his power within the [Council of the Kingdom] to ensure that Suárez was in the *terna* from which the candidates were to be picked. Thereafter, with Fernández Miranda as a shrewd script-writer, Suárez fronted the complex operation whereby the Francoist establishment effectively dismantled itself.”⁴⁰

Absent from the *terna* were José María de Areilza, the Foreign Minister in the Arias Navarro cabinet, who was “damned by his liberalism”⁴¹, and Manuel Fraga, who had “ruled himself out by his belligerent style”.⁴² Suárez, who had emerged as a technocratic reformer within the regime, was seen as a safe option, less susceptible of infuriating the old guard. However, he was a leading figure of the more restrained “semi-opposition”⁴³ within the regime. Arias Navarro told Suárez that he was delighted with the latter’s appointment to be his successor “if only because it meant that neither Areilza nor Fraga would be President of the Council of Ministers. Indeed, Suárez’s Francoist credentials delighted the [hard right] bunker as much as they horrified the opposition”.⁴⁴ As for the King, “Suárez signified someone who, as a Movimiento *apparatchik*, would be able, especially under the guidance of Fernández Miranda, to use the system against itself and so initiate reform”.⁴⁵

That Suárez himself was eager to embrace such a course had been clear at least since his discourse in the Francoist Cortes on June 9, in favour of liberalisation and democratisation. The government, argued Suárez, should respond to the monarch’s support for reform and to the new pluralism in Spanish society: “The government, the legitimate manager of this historic moment, has the responsibility to put into motion the mechanism necessary for the definite consolidation of a modern democracy”.⁴⁶

As Paul Preston concludes, “for the bulk of non-politicized Spaniards..., fearful of losing the material benefits of the previous fifteen years, but receptive to political liberalization, the combination of Juan Carlos and Adolfo Suárez was an attractive option. It seemed to offer the chance of both protecting the economic and social advances of recent times and of advancing peacefully and gradually towards democracy”.⁴⁷ Elsewhere, in support of his argument about the King’s merits, Preston noted that he persuaded key figures in the regime to join Suárez’s first

⁴⁰ Paul Preston, *op. cit.*, p. 36.

⁴¹ Paul Preston, *The Triumph of Democracy in Spain*, London & New York, Routledge, 1986, p. 68.

⁴² *Ibid.*

⁴³ Nancy Bermeo, “Redemocratization and Transition Elections: A Comparison of Spain and Portugal”, *Comparative Politics*, vol. 19, no.2, January 1987, p. 225.

⁴⁴ Paul Preston, *The Triumph of Democracy in Spain*, p. 68.

⁴⁵ *Ibid.*, p. 69.

⁴⁶ Cf. Juan J. Linz, Alfred Stepan, *op. cit.*, p. 93.

⁴⁷ Paul Preston, *The Triumph of Democracy in Spain*, p. 70.

cabinet, neutralized the high command of the army, and travelled around the country to generate support for the reform.⁴⁸

On 16 July 1976, less than two weeks after the appointment of Suárez, the vice-president of the Council of Ministers, General Fernando de Santiago y Díaz de Mendivil, walked out in anger from a cabinet meeting whafter a conflict with the more reformist members. He claimed that, as a Catholic, he believed sovereignty belonged to God, and not to the people. The removal of Franco's portrait from the Prime-Minister's office, and the amnesty decree issued by the government on 30 July generated new clashes; finally, in September, de Santiago resigned from the Council of Ministers in protest against the government's intention to legalise the communist-affiliated trade unions.⁴⁹ Paul Preston writes that de Santiago was an important pillar of the hard-right, co-ordinating the relations between senior military and civilian figures, "despite regular declarations of the armed forces' apoliticism... Throughout 1976 there had been contacts between leading generals and Francoist ultras like José Antonio Girón de Velasco, President of the Confederation of Nationalist Ex-Combatants, Blas Piñar, head of *Fuerza Nueva*, and the retired head of the Civil Guard, Carlos Iniesta Cano. Their meetings aimed to bolster military doctrinal intransigence in the face of democratic reform".⁵⁰

De Santiago had been appointed by the King in the Arias Navarro cabinet, following intense pressures by the military establishment⁵¹, and he easily retained his position of vice-president of the Council of Ministers in the Suárez government. His dismissal was bound to generate discontent within the military circles, and the letter by which he motivated his resignation enhanced his status of hard-right hero. The message was relayed by General Iniesta Cano, who published in the right-wing daily *El Alcazar* a strong-worded piece in praise of de Santiago, "A Lesson in Honour", in which he argued that the latter's example should be followed by any officer. In Preston's words: "This was effectively a declaration of war against General Manuel Gutiérrez Mellado, Santiago's successor".⁵² The two rebels were relegated to the reserve list, but were immediately reinstated by a military court, in what amounted to a major prestige blow for Suárez and Gutiérrez Mellado. However, the Government was able to continue, amidst military and hard-right distrust and discontent, its policy of replacing old-guard figures with more reform-minded senior officers. Anyway, "in the short, and indeed middle, term, basic fidelity to Juan Carlos rather than any deep-rooted commitment to democracy was the most that the Defence Minister could hope for from senior officers".⁵³

The legalisation of the PCE was a difficult moment for the government. The already damaged relationship between Suárez and Torquato Fernández Miranda came to an end. The minister for the Navy resigned, and had to be replaced by a

⁴⁸ Paul Preston, "The Monarchy of Juan Carlos: from dictator's dreams to democratic realities", p. 36.

⁴⁹ *Ibid.*, p. 97.

⁵⁰ Paul Preston, *The Triumph of Democracy in Spain*, p. 72.

⁵¹ *Ibid.*

⁵² *Ibid.*, p. 74.

⁵³ *Ibid.*

retired admiral, because no active admiral would accept that position.⁵⁴ The Army Supreme Council issued a highly critical document, but announced that the military accepted with discipline the *fait accompli*.⁵⁵

However, anti-reform propaganda reached alarming levels within the military, with organisations such as Juntas Patrióticas, Unión Patriótica Militar or Movimiento Patriótico Militar in the forefront. Preston explains: “It consisted of virulent diatribes against both the military reforms of General Gutiérrez Mellado, insultingly referred to as Señor Gutiérrez, and a government which permitted the deterioration of patriotic values, outrages against the flag and ETA terrorism. This blanket propaganda gave the impression that sectors of the army had reached the conclusion that an intervention in politics was essential”.⁵⁶

Commenting of the specificity of the Spanish case as a regime-initiated transition, Robert M. Fishman writes that, as a result, the authoritarian regime was never totally rejected symbolically, and that the marginality of state actors during the transition left more or less intact the structures of the Francoist state.⁵⁷ He notes that “the Spanish transition was the only one in Southern Europe where no purge of the state was possible; moreover, the fear of a military intervention against democracy helped to restrain the more radical instincts of some political actors”.⁵⁸

Pre-election consultations with the opposition

Three days after the appointment of Suárez, the government established the Register of political parties, on 6 July 1976. However, the first challenge was the adoption of the Law on Political Reform, since the King and the reformers wanted to operate within the framework of legal continuity, in order to undermine the expected resistance by regime hardliners.

The law had to be passed both by the National Council of the Movimiento and by the corporatist legislature, the Cortes, whose member had been appointed by the Franco regime. The former approved it in September, while the latter ratified it on 18 November, with 425 votes in favour, 59 against and 13 abstentions, thus sanctioning its own dismissal. Finally, on 15 December 1976, the electorate overwhelmingly approved it by referendum, and the turnout was an impressive 77 percent, despite the calls for boycott.

According to the Law on Political Reform, the Cortes was to be transformed into a bicameral assembly. The lower house would be elected by universal suffrage, while the upper one would consist of King’s appointees (40 percent) and delegates from the regional structures. An election law was adopted on 18 March 1977, with a proportional system that was nevertheless biased in favour of the conservative forces. Proportionality would be applied at the regional level,

⁵⁴ Juan J. Linz, Alfred Stepan, *op. cit.*, p. 97.

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*, p. 86.

⁵⁷ Robert M. Fishman, *op. cit.*, p. 430.

⁵⁸ *Ibid.*

and all the regions would send equal numbers of legislators, irrespective of their population. The left-wing opposition was supposed to be more popular in the more developed and densely populated urban regions, while the pro-government forces were expected to dominate in the smaller, predominantly rural ones. As Donald Share puts it, “the electoral law... was written by franquists, approved by the franquist Cortes and implemented through the remains of the franquist bureaucratic apparatus. Although the Suarez government consulted with members of the democratic opposition on key features of the law, the opposition was clearly at disadvantage”.⁵⁹

The passing of the law was the outcome of a bargain within the ruling elites, while the opposition was consulted, but not invited to any negotiations. Even before his appointment as head of the government, Suárez had used the June 1976 pro-reform speech in the Cortes to assert that any pact with the opposition should be negotiated only after the proposed competitive elections, because only then would the government have proper partners for dialogue.⁶⁰ He did not change his mind, although in the case of the Law on Political Reform, according to Jonathan Hopkin, the consultations with the centre-left opposition were consequential: “such was the degree of consultations on the [Law on Political Reform] that the text was described as cross-eyed (*estrábico*) since it appeared simultaneously to satisfy incompatible demands: full democracy for the opposition and constitutional continuity for regime conservatives”.⁶¹

The high turnout at the referendum was an important victory for the government, and a major defeat for the opposition parties, most of whom had advised the electorate to abstain. After this symbolic victory, Suárez opened even more substantial talks – though not formal negotiations – with the opposition, as its participation in the elections was necessary.⁶²

Indeed, although Suárez had had unofficial meetings with the leader of the Socialist Workers’ Party of Spain (PSOE), Felipe González, and other opposition figures during the summer, the first official meeting between Suárez and González took place eight days after the referendum.⁶³ As for the leader of the still banned Spanish Communist Party (PCE), Santiago Carillo, he returned from exile immediately after Franco’s death, was arrested and released shortly afterward. His first unofficial meeting with Suárez took place in January 1977, and in three months later the PCE was legalised, in time to compete in the first parliamentary poll, on 15 June 1977.⁶⁴

The informal consultations between the Suárez government and the opposition took place against the background of a growing civil and labour unrest,

⁵⁹ Donald Share, *The Making of the Spanish Democracy*, New York & Westport, Praeger, 1986, p. 124.

⁶⁰ Juan J. Linz, Alfred Stepan, *op. cit.*, p. 94.

⁶¹ Jonathan Hopkin, “From Consensus to Competition: The changing nature of democracy in the Spanish transition”, in Sebastian Balfour (ed.), *op. cit.*, p. 8.

⁶² Juan J. Linz, Alfred Stepan, *op. cit.*, p. 83.

⁶³ Jonathan Hopkin, *op. cit.*, p. 96.

⁶⁴ *Ibid.*

which at times seemed to threaten the entire process of democratic opening, given the major risk of a far-right counter-reaction, supported by the army. The most dangerous moment was undoubtedly the so-called “Black Week” (23-28 January 1977), with the death of two students, five communist lawyers and five policemen. However, although the pressure from the working class remained high in the run-up to the elections, the government could not be forced to make further concessions, and the opposition understood the necessity of adopting a more moderate line.⁶⁵

The anti-Francoist opposition forces, ranging from the far-left to the centre-right, had already made numerous more or less unsuccessful attempts to forge a common ground against the Francoist regime. In 1975, just weeks before Franco’s death, the two main coalitions of opposition groups issued a joint declaration entitled “To the peoples of Spain”, in which they reaffirmed their commitment to *ruptura* and the peaceful character of the process, and rejected the continuity of the regime and of its institutions. They demanded the immediate release of political prisoners, the restoration of fundamental rights and liberties, political freedom for the several nationalities, and the enactment of a democratic *ruptura* by launching a constitution-making process in which the people would decide, by universal suffrage, on the type of state and government they prefer.⁶⁶

In fact, by early 1976 the Socialists had abandoned the idea of “totally sweeping away Francoism with a provisional government and a constituent Cortes”.⁶⁷ The informal meeting between Suárez and the PSOE leader met Felipe González, on 10 August, apparently confirmed that the latter PSOE leader had reached the conclusion that “a constitution elaborated by a freely elected Cortes would in itself constitute a *ruptura*”.⁶⁸ The leaders of the smaller opposition parties were ready to accept that, as well, but the banned (though tolerated) PCE would be a more difficult discussion partner. However, following prior informal discussions with other leading reformists in the regime, including de Areilza, the Communist leader Santiago Carillo – with whom Suárez had only indirect contacts – accepted the need for peaceful change, and the political framework set by the government.⁶⁹

Following the creation of the POD as a broadly based coalition including all the major opposition forces, in October 1976, a relatively autonomous Committee of Nine was formed, including all political currents, from the extreme left to the centre-right. Following the referendum, the government opened negotiations, and the Committee of Nine formulated some basic claims in the run-up to the legislative elections of 1977: the extension of political amnesty; proportional representation; legalisation of all the opposition parties, including the PCE; and the dissolution of the Movimiento... and of the Sindicatos Verticales (the state-dominated corporatist interest associations for labour and capital)⁷⁰. However, as Maravall and Santamaria note, the last request was “the only reform directly affecting the political apparatus

⁶⁵ José María Maravall, Julián Santamaria, *op. cit.*, p. 84.

⁶⁶ Santos Juliá, *op. cit.*

⁶⁷ Paul Preston, *The Triumph of Democracy in Spain*, p. 71.

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*, pp. 71-72.

⁷⁰ José María Maravall, Julián Santamaria, *op. cit.*, pp. 83-84.

and personnel of the Franco regime”.⁷¹ In exchange, the opposition had to accept the monarchy, and to abandon the idea of a transitional national unity government and the prosecution of those responsible of repression. The issues of regionalism and economic reforms were postponed.

On the whole, as Josep M. Colomer argues, “real negotiations and pacts between the former Francoists, converted to reformists..., and the democratic opposition – which tend to be presented as characteristic of [the Spanish] case – did not take place until after the first free elections, held on 15 June 1977, a year-and-a-half after the death of the dictator”.⁷² And he notes that, during the pre-electoral period, “which tends to be decisive in many aspects of processes of transition, the reformists did not agree with the democratic opposition but, rather, with the continuists of the authoritarian regime”.⁷³

Concluding remarks

The popular vote showed a remarkable balance between right and left in the voter preferences: 43,9 % for the right, 43,1% for the left. Within the right-wing camp, Adolfo Suárez’s loosely organised and heterogenous Union of Democratic Centre (UCD) received 35,1 %, while the more right-wing Alianza Popular, led by Manuel Fraga, was supported by 8,8% of the electorate. As for the centre-left, the PSOE received 33,9 % of the votes, and the PCE 9,2%. In terms of seats, the UCD had a relative majority that enabled Suárez to form a minority government. This called for a sustained dialogue with the opposition, in order to tackle the major tasks that lied ahead, in the second and final stage of transition: constitution-building, economic and social challenges, and issues related to regions and nationalities. This dialogue took the shape of formal negotiations, conditioned by the composition of the elected Cortes, and led to the conclusion of official pacts: the Moncloa agreements on socio-economic issues in the autumn of 1977, the 1978 Constitution, and the much more elusive process by which the “autonomous communities” were created. By failing to gain a strong parliamentary majority, Suárez and the UCD were compelled to change their strategies, opening the way for a more balanced second stage of the transition.

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⁷¹ *Ibid.*, p. 84.

⁷² Josep M. Colomer, “Transitions by Agreement: Modeling the Spanish Way”, *American Political Science Review*, vo. 85, no. 4, December 1991, p. 1283.

⁷³ *Ibid.*, p. 1284.

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