

Spanish Constitutionalism
The Legitimization of the Spanish Constitution

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Abstract

The democratization of Spain is one of the most important political transitions that ever occurred. While the process itself can be hailed as a crowning achievement, this paper looks at the specific role of the legitimization of the Constitution. Through the use of the Pact School Theory I argue that Spanish elites formed coalitions to press for the legitimization of the Constitution. This paper will look at the roles of the Spanish elites and how they were able to bring legitimization to the Constitution during the democratic transition. The progression of democratic consolidation is a long process, but for a state to have a strong democracy the Constitution must be legitimized. This paper will explore this process in the case of Spain and the creation and process of legitimizing its Constitution.

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Introduction

In a democracy the Constitution is the guarantee of the rights and the will of the citizens it represents. Throughout the history of democracy constitutions have been pondered, created, and destroyed. In the post World War II era, a wave of democracy swept across Europe, transforming governments of authoritarian rule and dictatorships over to the citizens of the states. It is of the utmost of importance to follow and study these democratic waves of the twentieth-century because of the impact it can have on the future of democracy.

The creation of a new democracy can be viewed as a task of enormous complexity and scrutiny, but the creation of a strong stabilized democracy is an inestimable task. Standing as the pillar of democracy, the Constitution must uphold the rights and laws to all the citizens of the state. No one person or entity is above the Constitution and for a solid democracy to be achieved, a strong Constitution must be written. The creation of a strong Constitution requires a singularly important aspect, and that is the support and the belief of the people. Through the support and the belief in the Constitution, a democracy can be legitimized and accepted by its citizens.

During the twentieth-century many political transitions took place across the European continent, and the Iberian Peninsula would soon succumb to this wave of democracy sweeping across the globe. Following the death of Dictator Franco, the State of Spain would embark down this path toward democracy. Studying the Spanish case of transformation presents a unique opportunity to gain a better perspective on how the conversion process took place and how the democratic consolidation of the state was able to prevail. Within the process of democratic transformation is the ideology of legitimization of the new political system. In order for democracy to succeed in the case of Spain, the legitimization of the governance had to be achieved. Spanish political history has been marked by regional disputes, failed democratic institutions, civil war, and military

intervention. With such a lengthy history of divisions and governance failure, the democratic legitimization of the state was imperative.

In this paper I argue that the legitimization of the Spanish political system is the result of the political elites forming pacts in order to create a consensus democracy, thus giving the Spanish political system its legitimacy. The transformation of Spain is a case of “transition from above” where current regime enacts a process to transform the existing political system into a new one. During the Spanish transition to democracy, the political elites would pact together and bargain on reformist issues that were crucial to the ratification of the Constitution. Through the specific cases of the Basque and the Catalans of Spain I will draw comparative analyses and give examples of how these political pacts helped to legitimize the Constitution for the majority and marginalize the non-pact minority. The ideology of legitimization of the political system is the direct result of elitist pacts during the transformation and in this paper I argue that this is what gave the Spanish political system its legitimacy.

The first chapter introduces a theoretical approach of how the Pact School Theory best exemplifies the Spanish Transition. The Pact School Theory asserts the idea that the transformation of Spain was a result of political pacts that collectively bargained. Using the Pact School Theory in conjunction with the Rational Choice Model I argue that the political elites would use pacts in order to legitimize the system. In this chapter the Pact School Theory is explained in detail and shows how it can be applied to the case of Spain.

In the Second chapter I take a look at the historical discourse of Spain up until the transformation. It is important to study the political history of Spain to gain a perspective on why the legitimization of the Constitution was essential. This chapter will also look at the nationalistic tendencies of the Basque and Catalans during the 20th century until the transformation. The understanding of nationalism in Spain allows me to illustrate the fact

that political history was rifled by regional divisions, and during the transformation political elites had to work to overcome these regional divides. This brief historical discourse will show how it was a necessity for political elites to later work in pacts to overcome their historical adversity. The use of the historical discourse will later be used to explain how the Pact School Theory works and how the legitimization prevailed.

The third chapter covers the actors of the coordinated transition and how the formation of political pacts allowed for the legitimization of the Constitution. This chapter will cover the Moncloa Accord, which was the first formation of political pacts in the transformation. The Constitution-making process and the stages in which it was formed will follow. In the last section the major players of the Constitution will be identified and their roles and pact strategies will be shown. This section will illustrate how the political pacts of the of the transition period were able to negotiate and work to create a legitimized political system. When the Pact School Theory is applied to the players of the transition it will explain how by working in the consensus model they were able to overcome the historical political divisions and create a legitimized political system.

Chapter four takes a look at the Basque case in the process of creating the Constitution. This section focuses on the Basque region of Spain during the transition, and looks at how the Basque approached the transition following the death of Franco. This chapter examines the violent tactics used by the Basque during the transition and their attitudes towards the emergence of the Constitution. In reference to the Pact School, this chapter also looks at the voting and behavior of the political elites towards the Constitution. The case of the Basque will show how the political pacts formed by the majority to legitimize the political system eventually marginalized the Basque region.

The final chapter dissects the most debated referendum of the transitional period. This chapter focuses on the articles of autonomy in the Constitution and how the political

elitists had formulated them in order to legitimize the Constitution. It is important to center on the autonomous issue in order to understand how the legitimization process of the political system was finalized. While a vast multitude of other referendums were debated, the autonomous community articles of the Constitution best exemplify how the political elites of Spain were able to legitimize the final version of the Constitution.

In the mid 1970s the world watched Spain transform from harsh dictatorship to a full-fledged democracy. While this is a remarkable task of unprecedented magnitude for historical and political reasons, the aspect of Constitutional legitimization must be examined in order to understand the achievement of Spain; its transformation from a dictatorship to a strong democracy. The intent of this paper is to reveal the Constitutional legitimization process in order for the reader to grasp a better understanding of the importance of a Constitution generally accepted by the citizens.

Chapter One – Theorizing the Spanish Constitution

The twentieth century heralded in a multitude of democratic transitions around the globe. Many theoretical approaches were formulated to explain how these democratic changes were able to take place. One theory that appears to be appropriate for explaining how the democratic transition of Spain took place is the Pact School Theory. In basic terms, the Pact School Theory states that the political elite formed a pact in order to achieve a consensus on the fundamental features of democracy. This chapter will assess the how the Pact School Theory, in conjunction with the Rational Choice Model, best fits the case of the political elites of Spain and how they were able to obtain a coordinated transition in order to give the political system legitimacy.

1.1 The Pact School Theory

It is important to define the Pact School Theory in order to dissect it and to be able to apply it to (alternatively: integrate it into the broader framework of) the Rational Choice Model. Edles defines the Pact School Theory as:

“The pact school is based on rationalistic and individualistic presuppositions. Pactmen hold that beneath any substantive normative commitment the real motivating factor is the desire on the author’s part to maximize utility. In terms of order, Pactmen explain social arrangements in any given historical moments build up principally through the action of the individuals in that particular interaction”.¹

The Pact School Theory works out of individualism and not community. This is where it becomes a game of complexity and things are only achievable out of cooperation. Authors like Prezowski call it a “complex game” and adopt “game theoretic perspectives.”² In essence, the Pact School Theory is operated at an individual level where political elites bargain in cooperative agreements in order to obtain individualistic goals.

The Pact School Theory of transition focuses on elite choices and not on the social

¹ Laura Desfor Edles, “Rethinking Democratic Transition: A Culturalist Critique and the Spanish Case,” *Theory and Society* 24, no. 3 (June 1995): 356-357.

² Ibid., 358.

revolutions that play in part to the transitions. One of the focal points of the Pact School Theory is “transition through transaction” and “transition from above.” This is where “liberalization and democratization come about as choices made fundamentally by the regime.”³ The case with the Pact School Theory is that the political transition is not instituted by societal reforms. Conversely, the transitions are brought forth and changed by the political reigning government. Political elites during transitions will make choices that impact the overall transitional period. Their efforts and choices are based solely on the self-strategic interests of whom they represent. In a finalized assessment of the Pact School Theory, Edles claims:

In accordance with this “game” image, Pact School analyses of transition are post-hoc reconstructions of the strategic reasons that elites may have had for engaging in pacts or settlements and sometimes making extraordinary compromises in “transition from above” or “transition through transaction”⁴

The rationale behind the Pact School claim is that the process of political transition from above can explain the route and the decisions made throughout the consensus. By looking at the pacts of the political elite, one can understand how the bargaining process progressed and how compromise and settlements were achieved. Through the understanding of the political pacts, conclusions can be drawn regarding the rationale of consensus choices on reforms.

1.2 Spain and the Pact School Theory

Throughout the history of Spain, civil war, military intervention, and coups have overthrown the reigning state government institutions. Drawing upon the past history of the state the Spanish transition would take a new route in their transformation to democracy. Following the death of the dictator Franco, a democratic a period of “democratic consensus”

³ Edles, “Rethinking Democratic Transition: A Culturalist Critique and the Spanish Case,” 10.

⁴ Ibid., 358.

would take place where the Constitution would be ratified and the further democratic consolidation of the state could progress.⁵

The Spanish transition to democracy is a case where “transitions from above” political elites partook in political pacts in a consensual transition. It is important to understand why the political elites of Spain decided to form political pacts during the transition. The Spanish elites of Spain had “interest” in achieving a consensus and the formation of pacts allowed them to ascertain these interests.⁶ The interests of all of the political elites varied throughout the transitional period, resulting in the formation of political pacts that could achieve a consensus on the reforms.

While the motivation for pacts stemmed from self-interest, a generalized ideology is placed in higher regard. The transition of Spain shows that the reason for pacts is the legitimization of the Spanish state. Gunther describes the motivation for pacts by the Spanish elites as, “defined their goals not as the maximization of the interests of their respective clients, but rather the creation of a legitimate and stable regime within which their supporters’ interests would merely be satisfied”.⁷ This meant that the Spanish elites and the post Franco regime came to a consensus that democracy must be legitimized.

Drawing upon the political history of Spain and the remnants of the civil war, the Spanish elites knew that a legitimized Constitution would be instrumental in curtailing future political violence. The Spanish Civil War carried a great deal of symbolism throughout the Constitutional drafting period. Capitalizing upon the notoriety of the violence and the atrocities that it brought, elites knew that without a political legitimization of the government, violence would be upon the horizon. The Pact School Theory asserts that Spanish elites learned moderation from the experience of the civil war is deterministic.⁸ Through the use

⁵ Edles, “Rethinking Democratic Transition: A Culturalist Critique and the Spanish Case,” 362.

⁶ *Ibid.*, 363.

⁷ *Ibid.*, 364.

⁸ *Ibid.*, 364.

of elite bargaining through the formation of pacts, a political consensus was achieved. These political pacts of elites played a pivotal role in the institutional reforms that would mold and determine the finalization of the Constitution.

1.3 The Pact School Theory in Conjunction with the Rational Choice Model

In order to show how the Pact School Theory is applicable to the case of Spain it can be compared on two different levels: in the case of Spain as a nation-state and the Basque region of Spain. Drawing on examples from the Catalan's case throughout the transition generates a comparison to the Basque. The comparisons of these two groupings allow the Pact School Theory, in conjunction with the Rational Choice Model, to show how legitimization was incorporated into the transition at the elites' level.

The case of Spanish transition to democracy can be applied in many different contexts. The use of Pact School Theory applied to the Rational Choice Model allows assessment on the use of individual choices in a game context for the collective cooperation of a legitimized political system.⁹ Using this model gives separation between the collective culturalist perspective and the elitist approach to democratic transition. This theory will allow comparison between the choices made on the national level and the ramifications at the Basque regional level.

Through the use of the Pact School Theory applied in the Rational Choice Model this paper will assess how this process legitimized the Spanish road to democracy. Eliminating the cultural approach places the theoretical approach of game theory of individual actions that have collective outcomes. The use of the Pact Theory in the Rational Choice Model will show that the individual choices made by the political elitists were made out of self-interest, and in doing so it created political legitimacy on the national as well as the international level.

⁹ Joseph M. Colmer, *Game Theory and the Transition to Democracy* (England: Edward Elgar Publishing, 1995), 4

1.4 Methodology

The Spanish transition to democracy is a well-documented case of democratic consolidation. There are a multitude of texts and theoretical approaches that are placed as a form of analyses to explain Spain's transition to a legitimized democracy. The Pact School Theory is a useful analytical tool used to assess how the legitimization of the Constitution occurred. Arguably, this transition was an effect of political transition from above; the primary objective of the political elites was to obtain a consensus of legitimacy on the political system.

In order to argue these assessments, a variety of texts will be examined that deal with the history and the transition of Spain on the elitist level. Drawing on the historical discourse of the Spanish political system will show how the Pact School Theory provides the best answer to the question of why the centralizing ideology of the elitist was the best tool to obtain democratic legitimacy. The historical discourse will first show the political divisions of the Spanish state. This section will briefly show how the political divisions of Spain have been in effect there for hundreds of years. Illustrating the historical perspective of Spain is of use to help draw future conclusions of why it was in the interests of the elites to form pacts and create a government that was legitimized.

Following the historical discourse, the regional differences of Spain and how nationalism has played into politics will be highlighted, and an examination of the nationalism aspect and its relationship to politics will show how during the constructional transition there were deep divisions amongst the regions of Spain. Through the issues of nationalism, the case of the Basque in regard to their history up through the death of Franco is an important aspect. The Basque nationalism drew the deepest distinction amongst regional differences, and drawing upon this actuality allows inspection of the Constitutional autonomy issue. Throughout the transition period, regional autonomy was one of the most contested

referendums by the political elites. Contextually speaking, it is of the utmost importance to investigate this matter because it was one of the most important issues facing the elitist groups during the transition process. Pointing to the relevant articles of the Constitution will help illustrate the divisions between the elitists, and will also help draw a closer assessment to Pact School relation by demonstrating how elites were capable of overcoming their differences. The articles of autonomy show how the elitists were able to work together in pacts at the bargaining table in order to give the Constitution the highest level of legitimacy.

The players of the Constitution were very significant during the transition process. It is important to discuss the elitists of the transition and how their political pacts and decisions helped form the basis of the Constitution. The players involved in the formation of the Constitution were the most influential aspect in perpetuating the legitimacy of the Constitution. Naming the players and their roles will allow additional distinction on the historical aspect of how they were able to further legitimize the Constitution.

Finally, looking at the Basque analyses during the transition will illustrate how the political pacts formed by the majority essentially disenfranchised the Basque during the transition. It is important to show how their failure to cooperate in the consensus reaffirms their nationalism aspect in relation to their desire for independence. This methodology will assess how the Pact School Theory is the most appropriate theory that explains the legitimization of the Spanish political system throughout the democratic transition.

Chapter Two – The Historical Divisions of Spanish & Basque History

In order to understand the transformation of Spain from dictatorship to democracy it is imperative to look at the history of the state up through Twentieth Century. This chapter will focus more specifically on the Basque territorial and historical region of Spain up until the transformation. It is important to establish the historical progression of not only the state, but more specifically the history of the Basque and how nationalism was founded. This background information will illustrate how the historical divisions of Spain were not only an issue during the transformation period, but also a part of the historical legacy of the state. It is important to understand this legacy of the state because during the transition political elites would have to work to overcome their historical differences.

2.1 Spain and the State of Historical Discourse

The history of Spain is immensely different from the rest of the European continent. Due to its unique geographic location and close proximity to Africa, Spain has a lengthy history of invasions and conquest. From the Romans to the Germanic Visigoths to the Arabs, the occupation of the Iberian Peninsula was constant.¹⁰ Through these invasions and occupations the peninsula became very diversified and regionalized. This in turn would lead to many historical divisions of regional differences throughout the Middle Ages.

While the early history of Spain was rife with divisions amongst regions, this would become even more apparent when the Spanish Inquisition was introduced. In 1480, King Ferdinand and Queen Isabella launched the Spanish Inquisition, which led to persecution of the Jewish population and the eventual expulsion of the Moorish population.¹¹ The Inquisition ultimately led to the adoption of Catholicism as the national religion and the Castilian region gained the power of the crown. Throughout the sixteenth and seventeenth

¹⁰ John Crow. *Spain: The Root and the Flower* (Berkeley: University of California, 1963), 41.

¹¹ *Ibid.*, 182.

centuries, war and rebellions of independence would ripple through the Basque and the Catalan regions.

The beginning of the twentieth century witnessed the collapse of the entire Spanish empire around the globe. Great economic losses came to the Basque and the Catalans due to independence of the colonies. The regional divisions of Spain would grow larger during the Second Republic. The time period between the years 1931-1936 would be marked by three idiosyncratic revolts between the republican left and the conservative religious right.¹² These issues would range from church involvement in education to paying taxes, and would eventually lead to revolts in different regions, furthering political divisions in Spain. In 1931 the Generalitat of Barcelona was granted an executive order of autonomy. Under this autonomous control by the state, all four Catalan provinces would be under the control of Barcelona.¹³ In 1936 the Basque would be issued the same decree of regional autonomy under the Second Republic. This would lead to the era of Spanish Authoritarianism and the era of Franco's Spain would begin. The democratic differences between the left wing and the right wing would deepen and Spain would experience a heightened state of anti-democratic revolts.¹⁴

The newest era of Spanish regional division would begin on July 18, 1936, when the Spanish Civil War commenced. Following a failed military coup in Madrid, the revolt turned into a full-fledged civil war. In the first months of the war, "class enemies" were executed by the "red" repression in which an estimated 80,000 people were executed.¹⁵ In urban areas like Madrid, Valencia, and Barcelona, thousands of religious buildings were destroyed and thousands of religious figures were executed. Following the end of the civil war in April

¹² Laura Desfor Edles, *Symbol and Ritual in the New Spain, The Transition to Democracy after Franco*. (New York: Cambridge University Press, 1998), 30.

¹³ Jan Read, *The Catalans*. (London: Faber & Faber, 1978), 185.

¹⁴ Benny Pollack, "The Transition to Democracy in Portugal and Spain," *British Journal of Political Science* 13, 2 (April 1983): 216.

¹⁵ George Essenwein and Adrian Shubert, *Spain at War: The Spanish Civil War in Context 1931-1939*. (London: Longman, 1995), 132.

1939, hundreds of thousands were dead and a new era had begun. In April 1939, General Francisco Franco had achieved a total military and political victory.

2.2 The Basque

The Basque territory of Spain is located in the northernmost point of the state and shares a common border with France. The Basque region of Spain is comprised of four provinces: Alava, Guipuzoca, Navarre, and Vizcaya. Three other regions of the Basque country lie in perennial borders of France. The Basque claim to have the oldest language on the European continent, called *Euskera*, and have a great history of defying conquerors.¹⁶ Under Ferdinand the second, Alava, Guipuzoca, and Vizcaya became part of the Spanish state, and later this would include Navarre.

Throughout the eighteenth century, civil wars (Carlist Wars) within the Basque regions would break out. Following the end of the first Carlist War in 1841, the Basque were granted a provision of regional autonomy. This was later revoked when the second Carlist War began in 1873 and ended in 1876.¹⁷ The divisions amongst the Basque provinces and the Spanish state were great throughout the sixteenth, seventeenth, and eighteenth centuries.

While divisions amongst the Basque provinces were very high, the common uniting factor of Basque nationalism was that of the language in which nationalism draws upon.¹⁸ Sharing this common language created a bond amongst the Basques that formed a group that managed to maintain a distinct identity from the rest of Spain. The idea of Basque self-determination feeds upon the roots of the language because of the rural remoteness of the language.¹⁹ The Basque also claim to have never suffered under the feudal system through

¹⁶ Edles, *Symbol and Ritual in the New Spain, The Transition to Democracy after Franco*, 25.

¹⁷ Ibid., 125.

¹⁸ Shlomo Ben-Ami, "Basque Nationalism between Archaism and Modernity" *Journal of Contemporary History*, 26, no. 3/4 (September 1991): 499.

¹⁹ Jaqueline Urla, "Cultural Politics in an Age of Statistics: Numbers, Nations, and the Making of Basque Identity," *American Ethnologist* 20, no. 4 (November 1993): 822.

an invented political system called the Feuros (foral laws).²⁰ This entailed a self-governance of their own society where the people worked and owned the agrarian land and fought and taxed their own people without foreign occupation. Author Gloria Totoricaguena, said that “Basque people” as “those who speak Basque” is just one of the many examples of how Basque nationalism derives from language.²¹ Through the use of the Basque language, nationalism drew support that would continue well into the twentieth century.

2.3 Basque Nationalism in the Twentieth-Century

The twentieth century saw the greatest resurgence of Basque nationalism following the continual occupations of the Basque regions. In regard to the Basque of Spain, following the outbreak of the civil war in 1936-1939, the territory would be tormented and continually occupied. Following the control of the Franco regime the Basque autonomy would be revoked and placed under complete Spanish rule.²² After nearly two decades of a harsh dictatorship rule, Basque unity within the Spanish state began to show face with the emergence of a group called the Euzkadi ta Azkatasuna (ETA). The ETA was a homogenous group that fought for the self-governance of the Basque state.²³ During the next two decades the Basque would play a great role in terrorist actions against Francoism. In their most notable attack, the ETA eliminated the one of the right hand men to Franco, Luis Carrero Blanco. The ETA detonated explosives as he drove by in his car killing him and the three other occupants.²⁴ The death of Blanco would split the ETA because the military unit of the ETA was not informing the political bodies that were supposed to govern it.²⁵ During the

²⁰ Gloria Castresana Waid, “Euskadi-Spain: Linguistic, Social and Political Contexts,” *Journal of Basque Studies* 8, (1987): 15.

²¹ Gloria Totoricaguena, *Identity, Culture, and Politics in the Basque Diaspora* (Reno, Nevada: University of Nevada Press, 2004), 20.

²² Edles, *Symbol and Ritual in the New Spain, The Transition to Democracy after Franco*, 126.

²³ *Ibid.*, 127.

²⁴ Robert P. Clark, *The Basque Insurgents: ETA, 1952-1980*. (Wisconsin: The University of Wisconsin Press, 1984), 77.

²⁵ Michael von Tangen Page, *Prisons, Peace and Terrorism: Penal Policy in the Reduction of Political Violence in Northern Ireland, Italy and the Spanish Basque Country, 1968-97* (London: MacMillan Press, LTD, 1998), 120.

years to come, small and spontaneous attacks by the ETA would be carried out through Franco's death and past the Constitutional signing. The Basque separatists wanted complete autonomy for the Basque region of Spain.

In the article "Cultural Politics in an Age of Statistics: Numbers, Nations and the making of Basque Identity," author Jacqueline Urla points out the best way to explain Basque nationalism under Franco.

The links between Basque identity, patriotism, and language, however, may be owe to as much to Franco's repressive politics as to the actions of Basque political leaders. In punishment for nationalist resistance during the civil war, Franco banned the use of Basque in public, and initiated a strong campaign to eliminate it all together. There is no doubt that after years of political and cultural repression, an open insistence on speaking or learning Basque had become a political act of defiance against the authoritarian state as well as a maker of Basque patriotism.²⁶

Urla's description regarding the organization of Basque nationalism points out that the formation of it came under the repression of the Franco regime. This brings up the interesting point that the foundation of Basque nationalism is that of the Basque language. If it had not been for the repression under Franco, the Basque nation would never have come together as one collective nation. It is possible that the country would still have the same divisions that it had during the Carlist Wars. In essence, Franco's authoritarian rule is what drove the Basque to nationalism and essentially led them to terrorism against the state.

2.4 Spain and the Regional Divides of Nationalism: Excuse on Catalonia

The legitimacy of the Spanish Constitution was of the utmost importance during the drafting stages. If all parties did not accept the Constitution, then the legitimacy of it would have been doubted. In the state, however, sharp regional divides created regional nationalism. While the Basque region is the main area of focus, it is important to draw a comparison to the Catalan region of Spain where a similar case of regional nationalism took place.

²⁶ Urla, "Cultural Politics in an Age of Statistics: Numbers, Nations, and the Making of Basque Identity," 822.

The region of Catalonia is located in the Northeast region of Spain, bordering France with Barcelona as its major city. The diversified population influenced by immigrants has hindered the nationalism of the Catalonians. While the region has great historical significance, constant immigration and foreign control of the region has continued to diversify the Catalonia region. This is unlike the Basque region, where linguistics fuel the racism that jolts nationalistic unity. The Catalonians were unable to mobilize and fashion linguistic racism as a form of Catalanian nationalism.²⁷ The Catalonians' ability to absorb immigrants would later prove useful when the language had a reemergence. The language was used as a tool for the slow integration of immigrants into the Catalan community. This tool is what Hans Kohn called 'open nationalism,' where integration of immigrants was allowed into the community. Kohn also has another theory of nationalism called 'closed nationalism' where groups were never part of the integration of the hegemonic majority.²⁸ The Catalonians had a wide-open stance on nationalism, which in turn allowed them to more easily adapt to the political atmosphere surrounding them at that time.

During the years of the Spanish Civil War, the Catalonians were under constant oppression from the Franco regime, and great dismay and hatred was directed towards the Spanish government. Under Francoism, the Catalanian Statute of Autonomy was revoked and positions of power held by Catalonians were forcibly turned over to pro Franco government officials.²⁹ Under the Franco regime hundreds of thousands of Catalonians went into exile. The brutality under his regime went even as far as to dismiss teachers if they spoke out against Franco. All the symbols of Catalan were removed from the culture as well. The loss of the flag and the national anthem created a situation where they were not able to

²⁷ Daniele Conversi, *The Basques, the Catalans and Spain: Alternative Routes to Nationalist Mobilization* (London: Hurst & Co., 1997), 192-193.

²⁸ Ibid.

²⁹ Ibid., 110.

assimilate with their culture anymore and they were only allowed to be a part of the Spanish state.³⁰

As a state, Spain shares very common ideologies of religion and liberalism.³¹ While these are common amongst the state, ethnic groups tend to assimilate with their autonomous region, thereby creating regional nationalism. Spain is a very specific case where state nationalism is not as strong as regional nationalism. This is a very important feature to understand during the time Constitution was drafted because the political elites had to appease regional concerns in order to give the Constitution legitimacy. Regional nationalism can be viewed as one of the main reasons why the Pactmen School Theory was used to form the Constitution. The use of collective bargaining between the political elites allowed them to reach common goals on consensus democracy, which legitimized the Constitution.

³⁰ Ibid., 112

³¹ Stanley G. Payne, "Nationalism, Regionalism and Micronationalism in Spain." *Journal of Contemporary History* 26, no 3/4 (September 1991): 480.

Chapter 3 – Policymakers of the Coordinated Transition

The transition of Spain from the dictatorship of Franco to democracy involved an array of stages, negotiations, and political players. In order to understand how the Pact School theory exemplifies the transition of Spain, it is important to follow the stages of the Constitution. This chapter will take a look at the Moncloa Pacts, which were the first political pacts of the elitist transition of Spain. These pacts were very important because they were the precursor for laying the groundwork for the Constitution. This chapter will also look at the stages that the Constitution played out in. Within these stages I will look at how the Constitution transpired within the context of political elite groupings and voting on referendums. Finally I will analyze the actors of the transition and their actions during the transition. It is of the utmost importance to analyze the actor's actions during the transition due to the Pact School Theory claim that the transition came from above. The elitist ability to engage in political pacts is what brought legitimacy to the transition and the political system of Spain. The assessment of the political actors will show that their ability to work together in pacts was due to their common ideology of legitimization of the state. The transition of Spain applied in the Pact School Theory will show that elitist's goals were to legitimize the Spanish political system.

3.1 *Moncloa Accord*

A precursor to the consolidation of Spanish democracy and the negotiations for the Constitution was the Moncloa Accord held in 1977. The cooperation and the precedents set at the Accord laid the groundwork for the actors who would eventually be involved in the enactment of the new democratic Constitution. The Moncloa Accord ran the gamut of the entire political spectrum, including Communists, Christian Democrats, nationalists and

regionalists.³² Employers, the labor movement and the Catholic Church also supported the Accord. The only political organizations that remained outside of the political consensus were the neo-Francoist *Alianza Popular* and *Batasuna*, the Basque separatist group.³³ The objectives of the Moncloa Accord were to present wide ranges of economic and political issues, and then create an atmosphere of political consensus among the key political actors. This willingness of the government to adopt a proactive approach towards economic reform called for moderation, negotiation with society, and compensation toward those who suffered the most from economic change.³⁴ If they were to be successful, then an environment would prevail that would ensure a positive attitude in the direction of democratization and federalization.

The 1970s were fraught with problems such as the international energy crisis and skyrocketing inflation. The most important component of the Moncloa Accord was the implementation of a national wage band. It mandated that salary increases could not exceed 20-22 percent in anticipation of an inflation rate of 20 percent.³⁵ The purpose of this was to slow down the growth of inflation by decreasing wage demands. The results of this action would show that labor conflicts decreased and the business profits increased. The immediate positive results of the Accord were seen in the decline of the rate of inflation from 25 percent in 1977 to 14 percent in 1982.³⁶ Avoiding hyperinflation was important to maintain the credibility of this fledgling democracy. The Moncloa Accords were put forth by the UDC following their elections in 1977, and all the major parties would sign them marking one of the first instances of political pacts.³⁷ By dealing with the multitude of political and

³² Omar G. Encarnación, "Democracy and Federalism in Spain," *Mediterranean Quarterly* 15 no.1 (winter 2004): 68.

³³ Omar G. Encarnación, "Spanish Lessons for Moscow," *Russia in Global Affairs*, 2006, available from <http://eng.globalaffairs.ru/numbers/16/1050.html>; Internet; accessed 19 May 2007.

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ Paul Heywood, *The Government and the Politics of Spain* (London: MacMillan Press LTD., 1995), 219.

economic problems that revolved around the transition in the least confrontational manner possible, the main goal of the Moncloa Accord was accomplished and paved the way towards the ratification of the Constitution.

3.2 Creation of the Constitution

The process of creating the Constitution involved four unique stages. These stages are important to categorize in order to see how the transition from the dictatorship to democracy took place and how the Constitution was able to gain political legitimacy.

The first stage of the Spanish Constitution was the drafting process in August 1977 where seven major parties that were appointed to draft the first round of the Constitution. These members became to be known as actors of “consensus consolidation”.³⁸ The consensus consolidation was managed by the Union of Democratic Center (UCD). The UCD was the lead party that was in charge of the governmental transition and they would begin to break down the proposed amendments set forth on the table. The negotiations went on until Partido Socialista Obrero Español and Socialistes de Catalunya-Spanish Socialist Workers Party (PSOE) withdrew its representative because of the major disputes over autonomy.³⁹ The process would continue even without the PSOE withdrawal from the Constitution drafting. Later the representative would sign the draft Constitution on April 10, 1978, marking Spain’s great leap to the free and democratic world.⁴⁰ The issues addressed in the first stage of the Constitution were 1,333 amendments that had been purposed by the deputies. These amendments ranged from the church, to regional autonomy, to education and would be the focal point of the first stage.⁴¹

The second stage of the drafting process began on May 5th of the same year that a thirty-six-member committee of representative parties would begin to examine the

³⁸ Andrea Bonime-Blanc, *Spain’s Transition to Democracy: the Politics of Constitution-Making* (Boulder, CO: Westview Press, 1987), 57.

³⁹ Ibid.

⁴⁰ Edles, *Symbol and Ritual in the New Spain, The Transition to Democracy after Franco*, 102-03.

⁴¹ Ibid., 103.

Constitutional affairs presented in the regions of Spain. During this second round groups started to become marginalized and the talks were always on the way to failure. The two main parties that were continually displeased with the ways of the Constitutional affairs were the Alianza Popular-Popular Alliance (AP) and the Basques.⁴² Mostly these issues would be related to the regional disputes and self-governance relating to regional autonomy. By looking at the Pacts made during this stage of the drafting period then it is possible to understand how the stage was able to progress and the political elites were able to continue with the transition. During this stage the political pacts of the major parties headed by the UCD would be able to finalize the first draft. The UCD use of pact with other major parties allowed them to overcome the adversity put forth by the Basque and AP representatives. The finalized draft came forth on June 20, 1978 after many months of scrutinized debates.

The next stage began in early July 1978 where the original consensus consolidation would be reached in the congressional votes and then it was passed on to the senate. In the senate future amendments were placed on and then it was eventually passed on. A joint committee of the congress and the senate reached a definitive draft on October 28, 1978.⁴³ This draft would be sent on a full vote in both chambers and would be ratified three days later.⁴⁴ This vote was overwhelming passed by all committee members, but great discontent came from the AP where five members of AP and three Basque members voted against the Constitution. In this vote three AP members and twelve Basque members opted not to vote.⁴⁵ This would continue to show the Basque's disapproval of the democratic consolidation of Spanish state.

The fourth and the final stage of the Constitutional voting in Spain would involve the voters. On December 6, 1978, overwhelming voter support approved the Constitutional

⁴² Edles, *Symbol and Ritual in the New Spain, The Transition to Democracy after Franco*, 103.

⁴³ Paul Heywood, *The Government and the Politics of Spain*, 44.

⁴⁴ Edles, *Symbol and Ritual in the New Spain, The Transition to Democracy after Franco*, 104.

⁴⁵ Bonime-Blanc, *Spain's Transition to Democracy: the Politics of Constitution-Making*, 61.

referendum.⁴⁶ In the vote, 88% of people who voted would do so in favor of the Constitution. While the overwhelming approval was high, low voter turnout would show the discontent toward the Constitution. In the vote 33% of all Spaniards that were eligible to vote abstained from the vote.⁴⁷ This allowed the Constitution to be approved by just 59% of the total Spanish population. The rate of non-voters was far higher in certain regions that wanted greater autonomy from what the Constitution had to offer. The area with the most notable figures was the Basque region where 51.1% of people abstained from the vote and 23% voted against the Constitution.⁴⁸ The Constitution would be finalized when King Juan Carlos verified it with his signature. This marked the end to democratic consolidation of the Spanish government. While the Constitution united the country, it would reveal a multitude of political divisions in the geographical regions of Spain.

3.3 Actors of the Coordinated Transition

The transition of Spain from a dictatorship to democracy was a coordinated transition that only had the goal of giving the Spanish Constitution legitimacy. While the structural aspects of the Spanish Constitution can be categorized as reform, it is of the utmost importance to identify the players and their political pacts during the transitional period. In order for the Spanish Constitution to be legitimized, political elites had to work together to achieve a consensus on the Constitutional drafting. Throughout the Constitutional period, political elites formed a pact to write the Constitution in the best manner, in order to give it a level of legitimization that could be recognized by all Spanish citizens.

3.4 Dictatorship to Monarchy

The coordination from dictatorship to democracy took place in a very unique fashion. Following the end of the Spanish Civil War, the previous king, Alfonso XIII, had abdicated his throne and was exiled to Rome. Upon his death his son Don Juan de Borbon y Battenberg

⁴⁶ Edles, *Symbol and Ritual in the New Spain, The Transition to Democracy after Franco*, 104.

⁴⁷ Paul Heywood, *The Government and the Politics of Spain*, 44.

⁴⁸ Ibid., 45.

was legally next in line to inherit the throne. In 1947 the Law of Succession was passed in Spain which made it a monarchy once again. However Don Juan would send his son Juan Carlos to Spain to be educated in the Spanish ways.⁴⁹ In 1969 Juan Carlos was named Franco's royal successor and on November 20, 1975 he would become the King of Spain.

During the transition period from Franco to democracy, Juan Carlos would play an essential role that would lead the state to democratic consolidation. His instatement as king of Spain would further legitimize the transition to democracy. When Carlos was named as Franco's successor in 1969, the Spanish public would not take him seriously and all believed that his reign would be short-lived.⁵⁰ During the summer of 1974, Franco became gravely ill and Juan Carlos was to assume his official duties. This would mark the first time that Franco had provisionally surrendered his duties and it also marked the period where the public got used to the idea of Juan Carlos becoming his successor.

When Juan Carlos assumed position of king he would not share the same powers that Franco had. The transferring of power to the monarchy was limited and the king's fundamental role was to ensure the "National Movement".⁵¹ The king also had Constitutional powers that gave him the right to approve any Constitutional reforms. The executive powers of the monarch were broad and allowed the king to enact legal decrees and gave him control over all branches of the military if it was in accordance to Cortes and the government.⁵² During the transition period there was a basic sense of separation of powers within the government branches, but with approval by branches of the government the monarch would be able to control the Spanish state.

With control of the Spanish state the role that Juan Carlos would play in the transition of Spain to democracy was crucial. Carlos would be responsible for breaking ties with the

⁴⁹ Walther L. Bernecker, "Monarchy and Democracy: The Political Role of King Juan Carlos in the Spanish Transition," *Journal of Contemporary History* 33, no. 1 (January 1998): 66.

⁵⁰ Ibid., 70.

⁵¹ Ibid., 72.

⁵² Ibid., 72.

Franco past and stabilizing the parliamentary democracy that could bring legitimization and solidarity to the Spanish democracy. Author Walther Bernecker classified the role of Juan Carlos in two phases. The first was consolidation of the throne and the second the stabilization of democracy.⁵³ The role of Juan Carlos would prove to be even greater in the democratic consolidation when he won over the political elites and assigned them to reform tasks and won over the public approval for the transition.⁵⁴ These steps were very important when the political elites would later band together to vote on democratic consensuses. Juan Carlos would back his reforms towards democracy by aligning himself with powerful allies that continued to support him throughout the process. His ability to persuade political elites to join the Suárez cabinet was a testament to his abilities to press for the democratic transition.⁵⁵

The transition to democracy was a well-coordinated plan that would bring political elites together and give the government legitimacy. Juan Carlos would push for Adolfo Suárez to become leader of the government who was once the secretary of the 'National Movement' under Franco and also ally himself with Fernández Miranda as Cortes' president.⁵⁶ These two figures were strong politically and they were willing to press forward with the democratization process. Carlos would continue to further the democratization process when he forced the resignation of Defense Minister Fernando Santiago y Diaz de Mendiivil. His resignation created mixed emotions in the military; however, the appointment of General Manuel Gutierrez Mellado silenced any doubts and gave Carlos the support of the military.⁵⁷ The winning over of the political elites that controlled the military was a great victory for Juan Carlos and with that he cemented the legitimacy of the transition with them.

⁵³ Ibid., 74.

⁵⁴ Ibid., 74.

⁵⁵ Sebastian Balfour, *The Politics of Contemporary Spain* (London: Routledge, 2005), 36.

⁵⁶ Bernecker, "Monarchy and Democracy: The Political Role of King Juan Carlos in the Spanish Transition," 75.

⁵⁷ Ibid.

In order for Juan Carlos to gain more legitimacy amongst the political elites, he pardoned all opposition members who had not jeopardized human life. In the effort for Carlos to gain support ‘from below’ he pressed his continual ideals of the continuation of democracy through speeches and free assemblies.⁵⁸ During the transition period the legitimacy from above and below was the endeavor of the monarch. Through the use of political pacts of the Spanish elites, King Juan Carlos was able to give transition to democracy legitimization from the political elites on all the major sides. With his credibility from the top he was able to be the driving force of democracy and eventually lead Spain through the democratic consolidation of the state.

3.5 The Military in the Transition

Throughout history of Spain the military has been the key in most political reforms. The use of intervention by the military in political disputes has been a common epilogue throughout their history. Under the Franco regime repression for all political activities fell under the jurisdiction of the army.⁵⁹ During the transition of power it was necessary for democracy to have the approval of the military. Author Pedro Vilanova called the army the X factor in determining the democratic transition of Spain.⁶⁰ The role that the military would play in legitimizing the Constitution makes it one of the key players in the democratic consolidation of the state.

When King Juan Carlos took power in December 1975, he named Arias Navarro as the new prime minister. Navarro was the former Prime Minister under Franco’s final years so his nomination was essential to the transition. The nomination of Navarro brought the right-wing sectors of the government into the transition. As former Prime Minister, Navarro also commanded the respect of the military and the elites, which further led to the legitimization

⁵⁸ Ibid., 77.

⁵⁹ Pedro Vilanova, *Spain: The Army and the Transition, Democratic Politics in Spain* in David S. Bell (ed.), *Democratic Politics After Franco* (New York: St. Martin’s Press, 1983), 150-157.

⁶⁰ Ibid., 155.

process.⁶¹ The government of Navarro lasted only six months until Adolfo Suárez replaced him. Suárez was unknown within the military, but still had ties to the Franco regime which made him a reliable candidate replacement.

Suárez was key in the process of achieving military approval of the transition. In September 1976 he would meet with military elites and negotiate the terms of the transition.⁶² One of the key terms negotiated by the military was to exclude the communist party from future elections. Nevertheless, the government did not keep this agreement because in June 1977 all parties were able to enter the free and democratic elections, including the Communist party. Two heads of the military would resign out of protest against the legislation that allowed the communist party to partake in the elections.

During the transition period the military was faced with a multitude of changes and problems. The government demanded changes amongst the military institutions and placed General Guitierrez Mellado in charge of the transition. Also plagued by a terrorism front based on Spanish transition to democracy, the military was in a state of protectionism. While these new problems faced the military during the transition period, only one aspect was in disallowance of their final legitimization of the transition. The legalization of the Communist party in the elections was the one prominent feature that military elites could not agree upon. Driven by the majority in 1978, the Constitution was ratified with the allowance of the Communist party to partake in elections without the intervention of the military.⁶³ By the military not intervening in the democratic consolidation, it essentially legitimized the Constitution. Breaking from the Spanish history of intervening into politics, one of the key players furthered the democratic legitimization of the state.

⁶¹ Ibid., 156.

⁶² Ibid., 156.

⁶³ Ibid., 157.

3.6 Adolfo Suárez and the UDC

The instatement of Adolfo Suárez by Juan Carlos was another key component to the transition of democratic reforms. The linking of the past and a new beginning can be seen in the goals that Juan Carlos put forth for him upon his appointment:⁶⁴

Your naming represents the arrival of a new generation to the responsibilities of the Council of ministers and the head of the Ministerial Departments. You will form a governmental team with clear ideas, sincere propositions and decided will [to complete two objectives] though the work of all Spaniards to surpass the present difficulties and make possible a clear and peaceful participation of all citizens in the determination of our political future.⁶⁵

Suárez was given a position of extreme influence in which he was to guide the Spanish transition to democracy. His appointment as leader of the government gave him the fundamental role heading up the institutions that construct the Constitution. While his influence was great, during the process his ability to form pacts with political elites was uncanny in comparison to the other players in the Constitution.

The political pacts that Suárez made afforded him an unprecedented ability on the consensus bargaining table. Prior to the elections in 1977, Suárez combined his cabinet with Centro Democrático (CD), creating the Unión de Centro Democrático (UCD). The merger of these two political parties gave Suárez a major advantage at the bargaining table.⁶⁶ This marked the first time political elites would merge together to create a consolidated coalition. Throughout the duration of the democratic transition, the UCD and Suárez were able to achieve many of the political ideologies that they desired. Suárez used political elite pacts in the early stage to legitimize his Constitutional reforms throughout governmental institutions that remained loyal to CD and UCD.

⁶⁴ Edles, *Symbol and Ritual in the New Spain, The Transition to Democracy after Franco*, 65.

⁶⁵ Carlos Huneeus. *La Unión del Centro Democrático y la transición de la democrática en España*. (Madrid: Centro de Investigaciones Sociológicas, 1985).

⁶⁶ Edles, *Symbol and Ritual in the New Spain, The Transition to Democracy after Franco*, 66-67.

3.7 Christianity in the Transition

The role of the Catholic Church in Spanish history has been undisputed for hundreds of years and it has played a vital role in the politics of Spain. Following the death of Franco and into the transformation process, the political ties between the Vatican and Spain became greatly strained. The differences would continue to grow, and separation between church and state loomed on the horizon.⁶⁷

During the transition stage the Democratic Christians had united and formed the new group Federation of Democratic Christians (FDC). Upon the unification of other democratic Christian groups FDC became the largest supporter of the Catholic involvement in Spanish politics. The FDC would not become a significant player in the transition process due to their failure to include regional Christian Democrats. Another failure was the decision not to unite with the newly formed UCD, which had a large pact of political elites. The failure of non-pact agreements amongst the Christian Democrats resulted in their eventual lack of involvement in the Constitution. Interestingly enough, this would begin a new era where the church took a 'neutral' state during the transition of politics.⁶⁸ The separation between church and state is a process of democratic consolidation. The lack of involvement by the Christian Democrats furthers the ideal of how the political system of Spain was able to gain legitimacy.

3.8 The Spanish Communist Party

The Spanish Communist Party (PCE) grew large during the Spanish Civil War. The numbers in the party continued to increase until the late 1950s when the general secretary of the PCE launched the "Policy of National Reconciliation," a way of "replacing Franco by peaceful means".⁶⁹ During the transition the PCE supported a move towards democratic consolidation. The main dilemma that the PCE faced during the transition period was the

⁶⁷ Paul Heywood, *The Government and the Politics of Spain*, 44.

⁶⁸ Edles, *Symbol and Ritual in the New Spain, The Transition to Democracy after Franco*, 68-69.

⁶⁹ Richard Gunther, Giacomo Sani and Goldie Shabad. *Spain After Franco: The Making of a Competitive Party System* (Berkeley: University of California Press, 1986), 60-61.

generalized problem of the old generation versus the new generation of the post-Franco era. The PCE also faced the problem of the Francoists who fought against them in the Civil War. During the transition the military elites wanted the PCE to not be a legalized party.⁷⁰ In the 1977 elections the party became increasingly more divided and played an insignificant role within the transitional voting.

Looking at the PCE in the context of transition, they played a vital role in the legitimization process. When the PCE was allowed as a party in the transition voting without the interference of the military it further exemplifies the Pact School Theory. Edles contends that the Pact School Theory does not apply to the case of the PCE because of the process of “national reconciliation”.⁷¹ However, taking into consideration that Suárez was able to convince enough political elites within the military as well as UDC to allow the party to vote it is a clear product of the Pact School Theory. This is a case where other political elites were able to form pacts and give the voting rights to a disenfranchised political party. The Pact School Theory in this case does not contend that the PCE was able to obtain all that its members desired by getting into a pact with another politically affiliated group.

3.9 The Spanish Socialist Workers' Party

The beginning of the Spanish Socialist Workers Party (PSOE) began in 1974, towards the end of Franco's regime. It had an ideology of transition based on a rejection of “any path of accommodation of capitalism” or the “Francoist system”.⁷² During the transition period the mobilization of the public and the elites did not affect the PSOE. The supporters of the PSOE urged strong restraint against mobilization of the party. The leader of the PSOE, Felipe González, was unable to use mass mobilization to gain support in order to form a pact during the consensus period. This would later prove to be a major mistake for the PSOE

⁷⁰ Edles, *Symbol and Ritual in the New Spain, The Transition to Democracy after Franco*, 74-75.

⁷¹ Edles, “Rethinking Democratic Transition: A Culturalist Critique and the Spanish Case,” 366.

⁷² Ibid., 369.

during the formation of the Constitution as the party was unable to negotiate specific demands.

Throughout the transition years the PSOE would not agree to any bicameral alliances with any of the other major parties. Felipe González believed that any joint agreement with any of the other major players would cause the demise of his party.⁷³ The 1977 elections were promising to the Socialists, but reluctance to join major parties was seen when they failed to collaborate with UCD and when they opposed the formation of communist party. The PSOE participated in the Constitutional consensuses because they did not want to impede the transition process. While their votes often were in vain due to their lack of political mobility, their responses were viewed as brash as they participated in the slamming of doors and walkouts.⁷⁴ Due to their lack of political elite pacts during the transition, they played an insignificant role in the formation, and political parties like UCD would gain more during the consensus bargaining process.

3.10 The Popular Alliance

The Popular Alliance or Alianza Popular (AP) was created in October 1976 when other political parties merged into a coalition. The merger of the Democratic Reform, the Union of the Spanish People, the Spanish Democratic Action, Region Actional, Social Democracy, National Spanish Union, and the Popular Social Union led to the creation of the Popular Alliance. Under this merger the AP would gain a significant bargaining advantage during the transition. The leader of the AP was Manuel Fraga Iribarne who tried to lead the ideology of the AP as a center right group. However even with this ideology most would view the AP as a continuation of the Franco regime.⁷⁵

Throughout the transition process the AP would continually fight over reforms as well as its image. One of the greatest reform battles was over the legalization of the communist

⁷³ Balfour, *The Politics of Contemporary Spain*, 15.

⁷⁴ Ibid., 16.

⁷⁵ Edles, *Symbol and Ritual in the New Spain, The Transition to Democracy after Franco*, 74-75.

party. The AP would battle with the UDC in order to make it illegal for the communist party to partake in the electoral process. Nevertheless, the Suárez government upheld the legalization of the communist party's right to exist. Some of the other battles that the AP had to fight regarded their negative public image. People within the state viewed the AP as return to Francoism and a new kind of authoritarian rule.⁷⁶ With a negative public and constant opposition at the bargaining table, AP was able to achieve very little during the transition. While the political pact of the AP was in great force on the elitist level, their negative public image would show in 1977 when they had a poor voter turnout. Throughout the consensus, AP would continually disapprove of the democratic transition through the use of abstention of votes and walkouts. However during the drafting of the first twenty-five articles the AP would form an alliance with the UDC and this created a conservative majority. The AP was able to form political pacts, which made them a formidable political party on the Spanish scale. Due to their negative public image and connection to the Franco regime, the AP was not able to achieve much on during the consensus.

3.11 The Media as a Role Player

Throughout the democratic consolidation of Spain the media has played a vitally important role. The media during the transition would help to solidify the legitimacy of the Constitution making it one of the important players in the process. During the Franco regime the media was heavily controlled and regulated by the government. In 1966 the Press Law was drafted by Manuel Fraga, allowing the relaxation of the oppressive media laws.⁷⁷ Near the end of Franco's death newspapers had a relatively low circulation that only dealt with topics of sports and leisure. The control that Franco exerted was over thirty different newspapers called the *Movimiento*. The same control was placed on the media in television as

⁷⁶ Ibid., 74-75.

⁷⁷ Heywood, *The Government and the Politics of Spain*, 75.

well as the radio. Nonetheless the state monopolization of the media gave the Franco regime the power to check any opposition that may have tried to form against him.

The death of Franco created a massive shockwave throughout the media outlets of Spain. Freedom of the press was at its new beginning and overnight new journals and books became readily available and began circulating. Newspapers in Spain have the lowest diffusion rate in all of Europe except for Portugal. Due to this, television in Spain commands a massive audience that is unparalleled in most other European states. As head of the national movement under Franco, Adolfo Suárez also commanded the control over the state run Radio-Televisión Español or RTVE. The true key to the Spanish public's eyes and ears was through the state run television.

The use of Radio-Televisión Español was widely criticized by opposition parties because it was under the control of the UDC. The criticism was due to Adolfo Suárez' attempted manipulation of the political output that was delivered to the public. While Radio-Televisión Español was controlled by the UDC, many new private media outlets would begin to form. The deregulation of the media allowed for the advancement of private media sectors. These newly formed media outlets were held to very loose standards of regulation which allowed them the ability to choose political affiliations. The role that the private media would play in the transition is a very pertinent one of balancing out the state run television. With constant opposition to government referendums and scandals, the media became a powerful player in the Constitutional transition. Through the use of accountability and oppositional views to politics the media became a driving force that pressed toward the future of complete democratic consolidation. If the media had not given the support to the Constitutional process then the transition ultimately would not have been legitimized and the process would have eventually been a failure.

Chapter 4 – Constitution Making as a Coordinated Transition

Following the death of Franco, the Basque region of Spain underwent a secular route in its quest for autonomy. While much of the Spanish state yearned for a democratic government, all that the Basque country wanted was complete self-governance of their region. Due to this idea of complete autonomy based on region and language, Basque nationalism continued to grow throughout the Constitutional drafting period. During this period of voting, Basque political parties were abstaining from votes or staging brash walkouts because of disagreements on how regional autonomy should be approached. The political parties like Partido Nacionalista Vasco (PNV) and ETA would organize and try to declare no votes. In one of the most important votes on the Constitution the Basque firmly rejected Article Two because it did not mirror their ideals on Basque autonomy.⁷⁸

4.1 The Effect of Franco's Death

The Basque country was not very receptive to the death of Franco the dictator, whereas the rest of the state saw the death of Franco as a time for the rebirth of the state and a new transition into democracy. The legacy that the Basque region would gain from Franco's death was a dark path that would follow them through the Constitutional drafting process. One example of this is that in most of the major newspapers around the country the headlines were symbolic with the term 'new beginning.' In the Basque region, in a newspaper called *Deia*, the headline simply stated "Franco Dies Today". Within the editorial context it stated, "No matter the outcomes of the elections today, one thing is clear: Franco dies today, definitively".⁷⁹ It is easy to make the clear distinction that there was a violent tendency towards the change because of the way that the media outlets emphasized death rather than a new beginning. One of the biggest causes of Basque violence against politics was the way

⁷⁸ Edles, *Symbol and Ritual in the New Spain, The Transition to Democracy after Franco*, 120.

⁷⁹ Ibid., 130.

that the media portrayed voting with a negative connotation. Countless articles against voting for, against, or voting at all for the Constitution were viewed as a violent death toward the possibility of the Catalan autonomy.

4.2 A Period of Violence

During the transition years between the vote for democracy and the final Constitutional vote, Basque political violence had reached levels never seen before. Fueled by politics of the Basque region being unable to obtain the autonomy it wanted, strategic attacks of violence against political elites became very common. It was through this dimension during this two-year span of the vote for democracy and the vote for the Constitution that government played a minimalist role in combating these terrorist activities. During this period of violence the Basque had been granted a temporary statute of regional autonomy, which was made in the hope that the ETA violence would be curbed.⁸⁰ In polls taken in December 1977, 22.7% of Spaniards were worried about terrorism within the Spanish state, and within one month 53.1% of people worried about terrorism.⁸¹ These staggering numbers quickly gave a negative connotation to Basque representation in the parliament.

The ETA would use violent tactics that included everything from killings and assaults that would be in full view of the public eye. They would not even stop short of kidnappings, street vandalism, or extortion.⁸² Much discontent grew for the Basque separatists and the ETA throughout the Constitutional process, but public support in the Basque region was high. Even with the political violence going on, the political representatives of the Basque region mirrored the evident idealism of the Basque separatists and the ETA. This was shown in the final vote from the electorate on the final draft of the Constitution when most the members of

⁸⁰ Clark, "*The Basque Insurgents ETA, 1952-1980*," 105.

⁸¹ Ibid., 105-106.

⁸² Jan Mansvelt-Beck, *Territory and Terror: Conflicting Nationalism in the Basque Country* (London: Routledge Press, 2005), 77.

the delegation abstained from the vote. The public would also support what their Constitutional members had decided on when they had a chance to vote for the approval of the Constitution. In the Basque region, 46% of people turned out for the national referendum, which was 20% below the national average.⁸³ The violence enacted during these years would prove to get little done on the political atmosphere for the Basque case of gaining complete political autonomy.

The use of violence and terrorism by multiple Basque political parties can be widely viewed as a failure. While certain autonomy rights were granted on a specific case, biases for the Basque region total autonomy was not feasible. The democratic consolidation of the Spanish state was going to be inevitable and the tactics of terror proved to be useless because the outcome showed the will of what the majority wanted. The tactics of terrorism used by the Basque would also continue in the years to come, with the height of terrorism reached in the 1980s when the ETA tried for a resurgence of Basque autonomy. As it did before, the violence fell short of achieving anything at the political level in Madrid. The manifestation of violence in the Basque community was deeply rooted and was nearly impossible for extremist groups to enact on the collective Spanish societies.

4.3 The Basque and the Spanish Constitution

Following Franco's death in 1975, a nine-member committee helped to facilitate the transition towards forming a Constitution. This committee represented the moderate Basque and Catalan groups, and the Catalans were also represented in the Constitutional negotiations held after the 1977 elections.⁸⁴ The Catalanian transition towards ratifying the Constitution generally moved smoothly, but the Basque conversion was much more problematic. During the negotiations, Prime Minister Adolfo Suárez chose to exclude the Basque representatives,

⁸³ Gunther, et. al., *Spain After Franco: The Making of a Competitive Party System*, 123-124.

⁸⁴ Robert Hislope, "Ethnic Conflict and the "Generosity Moment," *Journal of Democracy* 9, no. 1 (January 1998): 144.

which caused them to either abstain from voting or submitting a negative vote during the ratification referendum. The problems continued when the Basque elites would place additional dispositions on the table whenever Madrid appeared willing to meet their previous demands.⁸⁵ As these demands continued to escalate, secession seemed like it would become the only option, especially when the PSOE took office in 1982 and attempted to limit the power of the regional governments.

Negotiations continued to take place from the middle of 1976 until 1978, and the drafting of the autonomy statutes took place in 1979. This provided Madrid the second opportunity to try to obtain consensus in the Basque country. This time, Suárez was successful in his attempt to engage the head of the Basque Nationalist Party (BNP) in private discussions, and the attitude changed toward the 1978 Constitution.⁸⁶ The BNP fully endorsed the autonomy statute and laid the groundwork toward seeking a coalition with the PSOE. The Euskadiko Ezquerria (EE), the Basque leftists, had an even more radical party that fully accepted the autonomy statute and the Constitution. They renounced terrorism and reorganized their party into one that was loyal to the Spanish state.⁸⁷ This left only a third significant political force in the Basque Country, Herri Batasuna (HB), as the only group that remained committed to the use of terrorism through its paramilitary group, the ETA. The HB continued its path toward isolation as the PNV and the EE integrated themselves with the elite.

4.4 The Birth of a Constitution

The inception of the Constitution of 1978 began with the Committee of Constitutional Affairs and Public Liberties, a group of thirty-six members of Congress, drawn from the

⁸⁵ Ibid., 144.

⁸⁶ Ibid., 145.

⁸⁷ Ibid., 145.

major parties of Parliament in proportion to their strength in the lower house.⁸⁸ From this committee, a seven-member panel with a similar composition was selected among the elected members to work on a draft of the Constitution to be submitted to the body. These men came to be known as the Constitution's fathers and represented the widely varying opinions of the political spectrum. One of the members of the panel was writer Camilo José Cela, a royally appointed senator. The finished draft was presented to the Constitutional Committee before it was submitted to both Houses and Parliament for final scrutiny, then presented to the full Congress for approval on October 31, 1978. Congress approved the document with a vote of 326 to six, with fourteen abstentions.⁸⁹ These abstentions came mostly from the Basque Nationalists. The Senate passed the Constitution with 226 votes for, five against, and eight abstentions. On December 6 of 1978, the Spanish people had the opportunity to vote on the referendum, and at that point it was approved and enacted on the 28th of December.

The enactment of the new democratic Constitution in 1978 involved compromises aimed to satisfy both the Franco loyalists as well as the regionalists in Catalonia and the Basque country. The Constitution “encapsulates an exquisitely ambiguous compromise that recognizes the historic, indissoluble unity of the Spanish nation together with the existence of multiple Spanish nationalities”.⁹⁰ The military though, was the one group that was the least happy with the Constitution, which was witnessed in the 1981 revolt attempt to overturn the democracy. They felt that allowing regional self-governance weakened the central state and would eventually lead to independence by Catalonia and the Basque country.

4.5 Outcome

According to a Centro de Investigaciones Sociologicas (CIS) government survey, the general opinion toward the Constitution today is that many Spaniards have a positive image

⁸⁸ Michael T. Newton, *Institutes of Modern Spain: A Political and Economic Guide* (Cambridge: Cambridge Press, 1997), 15.

⁸⁹ Ibid.

⁹⁰ Encarnación, “Democracy and Federalism in Spain,” 664.

toward the Constitution. Most think that the Constitution was quite balanced as far as what it proposed ideologically, it did not benefit or prejudice any particular group, and it was a major factor towards national reconciliation.⁹¹ At this point in time there is a widespread reluctance to modify the Constitution and the consensus is that most Spaniards are proud of the way that the transition was achieved. For the majority, the most important aspects of the Constitution are that it guarantees freedom, allows people to solve differences through peaceful means, and that it was passed with the agreement of all political groups.⁹²

The framers of the Constitution made a conscious attempt to avoid offending or antagonizing those who were opposed to the federalization of the country. They did this by purposefully avoiding the use of the word “federalism”. Article Two of the Constitution, “recognizes the unitary character of the Spanish nation as well as the right of any region and its people to petition for home rule from the central state.”⁹³ By using this wording, the Constitution opens the door for partitioning into self-governing units and creates a unique hybrid system of federalization and regionalism. At best, the Constitution is a symbolic reconciliation of a country that was first divided by a civil war, then by the Franco regime.⁹⁴ A consensus was formed, but this did not mean that all the parties were in complete agreement with one another. This consensus was not actually formed by equals, since the government had all of its resources from the previous regime at its disposal, therefore maintaining a position of strength throughout the negotiations. Though the government had this advantage, it did not have complete power, nor did any of the other parties involved. Franco’s death caused his heirs and the opposition to use each other to overcome the impasse,

⁹¹ Paloma Aguilar and Carsten Humlebaek, “Collective Memory and National Identity in the Spanish Democracy: The Legacies of Francoism and the Civil War,” *History & Memory* 14, no. 1/2, (spring 2002): 148.

⁹² Ibid.

⁹³ Encarnación, “Democracy and Federalism in Spain,” 71.

⁹⁴ Newton, *Institutes of Modern Spain: A Political and Economic Guide*, 17.

Alfredo Suárez did not have a majority in Parliament, and all of the parties tended to gravitate toward the center of the political spectrum.⁹⁵

The construction of the Constitution is not perfect, as there were some issues that were not addressed or even open for negotiations. The leftists had to simply accept the role of the monarchy, the church and the military since these subjects were not part of the debate. The conflicting attitudes of the left and right are further illustrated in certain sections that are contradictory, such as the role of the state within the economy, and others are ambiguous like the protracted section on regional autonomy.⁹⁶ Though the end result of the Constitution appears to have solved some of the problems, it remains an imperfect document that will need revisions in the future in order to keep its legitimization in regards to the Basque case.

⁹⁵ Ibid.

⁹⁶ Ibid.

Chapter 5 – Autonomy and the Spanish Constitution

The drafting of the Spanish Constitution in 1978 was a great stride toward the democratization process of Spain. It is revered as one of the greatest accomplishments of democratic transitions. Spanish transition presents a case of Constitutional continuity given that the whole process took place under the Franco dictatorship's Constitutional framework.⁹⁷ The drafting of the Spanish Constitution was a very difficult process that had to mirror the demands of the autonomous communities of the state from September 1977 to October 1978.

Spanish legitimacy of the state was the primary goal of the Constitution. While the autonomous communities are able to have a certain degree of rule of law the Constitution still maintains the power to control the communities at the federal level. The only way to show the correlation between the control of the state on the autonomous communities is by dissecting the guaranteed rights of what the Constitution states. Only then is it apparent that the legitimization of the state was the primary objective of the Constitution. The Constitution was a remarkable process that guaranteed that the Spanish state would stay together and the political system would be legitimized. It is important to understand that through the collective bargaining during the drafting period on issues such as the autonomous statutes that regions would ratify the Constitution in the vote, thus giving the political system final legitimization.

The democratic reintegration of the Spanish state was of the utmost importance during the Constitutional drafting period in the late 1970s. Following the death of Franco the state of Spain was torn apart by communities that desired regional autonomy or even sovereign states of their own. The agenda marked by the Constitution would prove that the reconstruction of the Spanish state towards making it inclusive, i.e. capable of both recognizing and uniting different identities, was the only true agenda. Through the confines

⁹⁷ Heywood, *The Government and the Politics of Spain*, 38.

of the Spanish Constitution political elites used the autonomous communities as a policy of appeasement to ensure the democratic legitimacy of the Spanish Constitution.

5.1 *Autonomy*

The term autonomy has to be defined in two contexts when talking about the case of Spain. Elena Merino-Blanco defines autonomy as: “Autonomy is the power of individuals or groups to give themselves regulations within the framework of another, wider superior legal system”. In the case of Spain she claims, we find “a unitary state in which territorial entities- the autonomous communities-exercise the powers attributed to them by the Constitution”.⁹⁸ In essence this means that there is rule of law at the federal level and at the autonomous level.

The term autonomous community has a very different definition in international law. It is important to look at it in this context because it allows outside interpretation of what the autonomous statutes of the states are allowed and not allowed to do. The American Journal of International Law claims, “Autonomy is not a term of art or concept that has generally accepted definition in international law.”⁹⁹ However, it does define autonomous states as:

Autonomous areas are regions of a State, usually possessing some ethnic or cultural distinctiveness, which have been granted separate powers of internal administration, to whatever degree, without being detached from the State of which they are part. For such status to be present of interest, it must be some way internationally binding upon the central authorities. Given such guarantees, the local entity may have a certain status, although since that does not normally involve foreign relations capacity, it is necessarily limited. Until a very advanced stage is reached in the progress towards self-government, such areas are not states.¹⁰⁰

By comparing these two definitions of the autonomous communities to what Article Two of the Spanish Constitution states, a definitive distinction can be formed on how the Constitution was shaped to be inclusive to these communities. When article Two was formed in the Constitution it gave autonomous rights to multiple communities. However, all of these rights were not granted as universal rights to all of the communities. Two communities were

⁹⁸ Elena Merino-Blanco, *Spanish Law and Legal System* (London: Sweet & Maxwell Limited, 2006), 49.

⁹⁹ Hurst Hannum and Richard B. Lillich, “The Concept of Autonomy in International Law,” *The American Journal of International Law* 74, no. 4 (October 1980): 858.

¹⁰⁰ *Ibid.*, 859.

given greater autonomous status. The Basque and the Catalans were given greater authority by the state than the other communities. While the president, an executive, unicameral parliament, and a High Court of Justice were granted to all regions, special judicial rights were granted to the Basque and the Catalans.¹⁰¹ Article Two recognized that these communities must have special rights to ensure that they would stay within the state. While the two definitions of autonomy follow the same basic standard, the one clause that the Constitution does not permit is ability for these autonomous communities to have a foreign relations capacity. This, in effect, limits their power to act as a self-regulated state on the international level, keeping them in the realm of the Spanish state control.

Comparing Spanish autonomy to other states presents the opportunity to show that limiting the power held by the communities forces them to remain tied to the states in the matters of defense and foreign relations. The Spanish states' ability to control foreign relations and matters of defense for the state is a necessity for the inclusion of the Spanish state. If the Constitution had relinquished control of these specific clauses it would be giving a basic sovereignty to the disenfranchised communities. The idealism of the Spanish Constitution was to keep control of the state as a whole and granting any forms of defense or international agreements would have been a failure of inclusion.

The Spanish Constitution outlawed the defense aspect for autonomous communities. In the international community very few autonomous communities have the ability to have their own defense or military. In looking at the Turkish Federated State of Cyprus, the Constitution gives no mention to the area of military, yet it does grant the president the right to preserve the integrity of the state.¹⁰² In accordance with Constitutional laws of autonomous communities there is no direct law that gives these regions the ability to form defense organizations. In selective communities like the Cook Islands and the associated

¹⁰¹ Heywood, *The Government and the Politics of Spain*, 146.

¹⁰² Hannum and Lillich, "The Concept of Autonomy in International Law," 872.

states of Niue, and in Turkish Federated State of Cyprus, autonomous community can hold military defense in place, but all defense aspects remain in control of the executive branch. The ability for any autonomous state to conduct broad foreign relations is tightly limited. Out of the many autonomous communities in the world only one has this ability, but even then this is tightly regulated. Turkish Federated State of Cyprus retains the rights to broad foreign affairs but it cannot arrive at any definitive conclusion.¹⁰³ The ability to conduct foreign relation agreements in the international community would be a show of full sovereignty of the community and would in turn give them the stature of a sovereign state. The Constitution of Spain tightly restricts autonomous rights of the communities to cultural functions. In effect, it disallows these communities participation in the international community because they are not sovereign states.

5.2 Autonomy in the Spanish Constitution

The Spanish Constitution was designed to include the disenfranchised communities that the Franco regime left following his death. Its unique design was to bring the nation-state back together in one collective entity. As a whole, the design of the Constitution can be viewed as a great stride toward the democratic consolidation of the Spanish nation. One more issue must be studied more deeply to show how the state was able to remain together in times of such strife and civil unrest. In the Constitution, political elites would pact together in order resolve issues of the autonomous issue. The autonomous issue in the Constitution was one of the most contested reforms throughout the transition and its resolution by the political elites gave the Spanish political system the legitimacy that it needed.

The Spanish Constitution states that all the regions of Spain are granted autonomous communities. There are seventeen autonomous communities that geographically cover all the regions of the state. These states are granted statutes of autonomy that differ from one region

¹⁰³ Ibid., 873.

to the next. In these autonomous communities there is a president, an executive, and a unicameral parliament, including a High Court of Justice as well as other administrative branches.¹⁰⁴ Other specific regional delegations from state to autonomous communities have to go before a Constitutional Tribunal.¹⁰⁵ The autonomous communities have shared exclusive powers with the Spanish state. In these powers the state has equal rights, but if a law conflicts with the Constitution then the state presides over all laws passed in the autonomous communities. All appeals go before the Constitutional Tribunal, but they are not bound by the statutes of individual regional autonomy.¹⁰⁶ The basic breakdown of this idealism is to delegate regional control for self-governance, but give the Spanish government the final ruling.

The most unique design of the Spanish Constitution is that of Article Two. Article Two of the Spanish Constitution is the states' guarantee to grant autonomous rights to regions. This article can be viewed as the main reason that the democratic consolidation of Spain was able to take place and the State was able to remain together, therefore, it needs to be studied more deeply.

Article Two of the Spanish Constitution states:

The Constitution is founded on the indissoluble unity of the Spanish Nation, the common and indivisible fatherland of all Spaniards, and it recognizes and guarantees the right of autonomy of the nationalities and regions that comprise it, and the solidarity among all of them.

Article Two guarantees the rights to the autonomous regions of the Spanish nation. However, the term autonomy is a fuzzy term that can be loosely altered to fix appeasement in the Constitutional context of the Spanish Constitution. This is why the term autonomy must be dissected in order to show how the Constitution of 1978 was written in order to allow the

¹⁰⁴ Heywood, *The Government and the Politics of Spain*, 146.

¹⁰⁵ José Ramón Montero, "More than Conservative, less than Neoconservative: Alianza Popular in Spain." In Brian Girvin (ed.), *The Transformation of Contemporary Conservatism* (London: Sage, 1988), 154.

¹⁰⁶ Heywood, *The Government and the Politics of Spain*, 147.

inclusion of the disembodied regions of Spain. The unique use of autonomous articles written in the Constitution allows states to give self-governance to a region without placing the complete welfare of the state in jeopardy.

While Article Two granted the right for autonomy, the appeasement effort can be viewed in the latter articles of the Constitution. In Chapter Three of the Constitution, articles 143 to 158 define the rights of these communities.

Article 143 states:

In accordance of the right to autonomy recognized in Article 2, bordering provinces with common historical, cultural, and economic characteristics, the island territories, and the provinces with a historical regional unity may accede to self-government and constitute themselves into autonomous communities in accordance to with the provisions of that Title and the respective statutes.

The use of Article 143 provides for the open structure of autonomy: under certain conditions, new regions can be created. In article 143-2 it calls for a two-thirds majority from the municipalities to gain the right to regional autonomy. Also in article 143-3 it adds a provision that states that the process can only be repeated in another five years. To assess the competence of the Autonomous community, the state added article 148-2 which states: After five years have elapsed and through the reforms of its statutes, the Autonomous Communities may then expand their competences within the framework established in article 149.

Following the provisions set by article 149, another article was subsequently added for immediate autonomy. Article 151-1 states:

It shall not be necessary to wait for the five-year period referred to in Article 148-2 to elapse when the initiative for the autonomous process is agreed upon within the time limit specified in article 143.

Comparing article 143 and article 151 creates an example of how the Constitutional writers used an act of appeasement to gain legitimacy. The retrofitting article of 151 allows the state to grant immediate autonomy to certain regions, but if these regions are not capable or do not fit the state parameters of autonomy then the autonomous stature is not granted.

While appeasement was the apparent means for the drafters of the Constitution, sovereignty of the Spanish state was still by all means the final goal. The inclusiveness of the state can be seen in Chapter Three of the Constitution by the way that the autonomy is restricted and regulated. Article 144 states that the matter of Authority Authorization regulates the means by which a community can achieve autonomy. In this article it dictates the regulations on how regional autonomy can be achieved. It gives the right to the state to grant or deny regional autonomy to regions. This is useful because it allows the state to regulate and appease cultural and ethnic groups that claim that they are suppressed by state legislation. Articles 145 to 149 regulate the fashion in which autonomous regions can be achieved. Article 150-3 of the Granting and Retaining Authority states the state may dictate laws which establish the principles necessary to harmonize the normative provisions of the Autonomous Communities. Article 150 shows that the state will always have continual control over all pertinent matters, from financial to regional stability.

5.3 The Catalans and Constitutional Autonomy

The drafting of the Constitution showed the many divisions of the Spanish regional communities. During the drafting process much progress was made to consolidate all of the regions of Spain into a collective governing entity. In the Constitutional approval process the Catalan regional community desired a complete self-autonomous government separate from the Spanish government. This was not possible because the international community desired a unified democratic Spain and so much pressure was exerted on Catalan political elites. The drafting of the Constitution showed how the Catalans were able to use political elites and pacts to achieve the specific Constitutional amendments they desired.

The mobilization of the Catalans and their use of politics came before the Spanish idea on a vote for a democratic union. On September 11, 1977, the Catalan elites organized a protest of more than a million people in Barcelona to demand that Madrid make a move

toward democracy.¹⁰⁷ Bolstered by the mobilization of the people, Madrid scrambled to promote the democracy initiative. Catalans were then granted their provisional status of autonomy.¹⁰⁸ Their use of elitist politics would continue be a trend throughout the Constitutional drafting phase.

Prior to the drafting of the Constitution a statute of regional autonomy was issued to Catalan giving them an autonomous government.¹⁰⁹ This was achieved by Catalan elites lobbying for and putting elitist pressure on the government. On October 23, 1977, Josep Tarradellas was installed as Generalitat, the president of Catalonia. During his presidency he did not partake in the anti-Francoist opposition, rather his leadership was to show that he was above the parties.¹¹⁰ When he came to power Tarradellas would run his political platform on the idea a “new beginning of democracy” and “new beginning” of autonomy. Tarradellas approved the Constitution and would continually lobby for it because it was in the will of the people. Insisting that an affirmative vote “will mean a vote for democracy, and liberty and the autonomy of Catalonia”.¹¹¹ His statements carried great weight with the people of the region, but his motives were just to unite the people of the region. The political elites of the region knew that Catalan complete self-autonomy was not possible because of the voting practices of the people.

When the people of the region decided to vote in favor of the Constitution they voted for the democratic consolidation of Spain. This meant that Catalonia would be part of the greater state of Spain and that complete autonomy was not going to be attained. On the referendum on the Constitution, 68% of Catalonia turned out for the vote and 90% voted in favor of the Constitution.¹¹² Stemming from this popular vote, political elites used Catalan

¹⁰⁷ Conversi, *The Basques, the Catalans and Spain: Alternative Routes to Nationalist Mobilization*, 142.

¹⁰⁸ Ibid.

¹⁰⁹ Edles, *Symbol and Ritual in the New Spain, The Transition to Democracy after Franco*, 118.

¹¹⁰ Ibid.

¹¹¹ Ibid., 118-119.

¹¹² Bonime-Blanc, *Spain's Transition to Democracy: the Politics of Constitution-Making*, 42, 63.

nationalism to drive home the final theory of democratic consolidation of the state. They placed great emphasis on the idea that Catalan is a nation and within this nation people are not a collective group but a territory within a bigger state.¹¹³ The Catalans would continue the idea that their region was just one of a collective whole.

¹¹³ Edles, *Symbol and Ritual in the New Spain, The Transition to Democracy after Franco*, 119.

Conclusion

A Constitution rules and governs the entity that it represents. Throughout the twentieth-century, states around the globe drafted and created Constitutions for their sovereign states. In a democracy the Constitution is the single most important document that guarantees the rights of all the people. No person or group is above the laws put forth by the Constitution and all are held accountable. From the American Constitution to other non-democratic Constitutions, laws are made to assure rights to its citizens. For a democracy to be legitimized it must have the support of the people and a strong belief in their Constitution.

The twentieth-century democratization of Spain is one of the most important historical events in the post World War II era. The transition from a harsh dictatorship to a strong democracy represents the desires and wills of the Spanish people. The smooth transition of Spain from dictatorship to democracy is a phenomenon that must be understood. Torn apart by nationalistic ideals and historic civil wars, the people of Spain were able to overcome their historical differences and create a strong democratic union. The creation of a strong democracy in Spain was a result of the not only the will of the people, but the process itself. Many Constitutions have been written and have failed throughout the history of democracy, so when the Spanish Constitution was written the legitimization of it would be a primary focal point.

In the case of Spain, political elites created political pacts to bolster the Constitution. Through the use of these political pacts collective bargaining was used in a give and take situation that allowed the disenfranchised communities of the Spanish territories to work together towards a unified Constitution. The Spanish state was left in disarray following the death of Franco. His death marked a new beginning for the state, but this beginning would also revive new sentiments of autonomous rule and independence. Bolstered by this drive for

independence, regional nationalistic ideals began to surface and the problem of creating a legitimized Constitution that would be recognized by the entire state was presented.

By applying the Pact theory to the Spanish transformation, it can be understood how the legitimization of the Constitution took place. The political elites of Spain took the drafting of the Spanish Constitution into their own hands and only gave the citizens the right to vote for the finalized draft. With the drafting of the Constitution in the hands of the political elites it gave them the ability to pact together to create coalitions that could devise a Constitution that would retain the autonomous communities of the state and give the sovereign government legitimization amongst the people. Looking at the policymakers and the introduction of autonomous communities within the Constitution, the Pact Theory illustrates how working through coalitions led to the legitimization of the Constitution.

Incontrovertibly, no Constitution is perfect and stemming from that there will always be groups, entities, and nations that do not recognize the Constitution. The case of the Basque is an example of what happens when a community becomes disenfranchised from the process. The failure of the political elites to work within the confines of the drafting process marginalized the Basque representatives. Without a voice to express their desires of independence and self-governed autonomy the eventual recourse was civilian terrorism. While no Constitution is perfect, the general public accepts the legitimization of the Spanish Constitution. As time has marched on, Basque representatives are slowly working within the confines of the Spanish Constitution, making their desires heard, and this process will continue to legitimize the Constitution.

Appendix A

List of Abbreviations

AP – Alianza Popular
BNP – Basque Nationalist Party
CD – Centro Democrático
CIS – Centro de Investigaciones Sociológicas
EE - Euskadiko Ezquerria
ETA – Euzkadi ta Azkatasuna
FDC – Federation of Democratic Christians
HB – Herri Batasuna
PCE – Spanish Communist Party
PNV – Partido Nacionalista Vasco
PSOE – Spanish Socialists Worker Party
UCD – Union of Democratic Center
UDC – Unión de Centro Democrático

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