

# Completing the Religious Transition? Catholics and Muslims Navigate Secularism in Democratic Spain

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## Abstract

In Europe, Muslims are often seen as the enemies of secularism and *laïcité*, the strict separation of church and state pioneered in nineteenth- and early-twentieth-century France. Yet the Spanish experience shows that European Muslims should not *prima facie* be considered opponents of secularism. Indeed, a majority of devout Spanish Muslims have demanded, rather than opposed, state neutrality on religious matters—this in direct opposition to a concerted effort by the Catholic Church and its supporters to maintain a privileged position vis-à-vis other confessions. In the protracted debates over the role of religion in the public sphere in Spain, devout Muslims have shown a preference for the secular Socialist Party over the militant Catholicism of Spanish conservatives. The leaders of the Protestant, Jewish, and Islamic federations demanded in 2011 that Spain complete its “religious transition” so as to ensure the equal treatment of all religious confessions by the state. Muslims in Spain, while they have echoed Catholic demands for the preservation of religion in the public sphere, have opposed Catholicism’s privileged status in the country. By demanding consistency of treatment and state neutrality on religious matters, Muslims have assisted, rather than hindered, the construction of secularism in Spain.

**Keywords:** transition, Spain, religious rights, minority religions, secularism, education, Islam, Catholicism

## Religious Transitions

The demands made by devout European Muslims for religious rights should not be viewed in isolation from the larger historical and political contexts that have shaped, and to some extent limited, Muslim life in Europe. Joel S. Fetzer and J. Christopher Soper, in their comparative study of the relationship between Muslims and the state in Britain, France, and Germany, have shown that the development of public policy on the religious rights of European Muslims should not draw solely on theories of resource mobilization, political opportunity structure, and political ideology, since this relationship “is mediated in significant ways by the different institutional church-

state patterns within each of these countries” (2004: 7). The experience of Spanish Muslims, in particular, demonstrates the extent to which Muslims’ deployment of collective resources in the struggle for religious rights, and their willingness to take advantage of certain political opportunities to implement and extend these rights, has been limited by the institutional pattern of church-state relations in Spain, as well as the resource mobilization of the country’s main contender for religious space—the Catholic Church.

Almost twenty years after the 1992 approval of the Agreements of Cooperation between minority confessions and the Spanish state, the leaders

of Spain's Protestant, Jewish, and Islamic federations demanded that the country complete its "religious transition" (Europa Press 2011). Yet all major players in religious matters—minority religious federations, the Catholic Church, and the Spanish political establishment—maintain vastly different ideas about what a complete transition should entail. According to Jewish, Protestant, and Muslim leaders, the state must implement and enforce the democratic framework on religious pluralism that guaranteed constitutionally-mandated state neutrality in religion and equal treatment of all confessions. For the Catholic Church, however, state neutrality and the equality of all confessions could only mean a loss of privilege for Catholics and the further separation of church and state; the status quo, with the occasional reinforcement of the Church's position during periods of conservative rule, was the best possible scenario. The Socialist Party, on the other hand, viewed Spanish Catholicism's privileged status as a result of the compromise implemented during the Transition period (1975-82)—a necessary compromise, certainly, but one that was in need of revision. For the Socialists, the process of secularization in Spain, understood as the "institutional and cultural changes that take people and organizations away from the institutional authority of the church and weaken their religious referents" (Pérez Díaz 1993: 119), had to be encouraged and reinforced.

While these positions reflect a particular balance of power between religious denominations, the constitutional and legal framework that determined church-state interaction in Spain since 1978, and the positions and priorities of the two main political parties—conservative and socialist—, the larger debate over a religious transition has not been confined to Spain; it fits, rather, within a broader European, and indeed global, discussion of the meaning and scope of secularization and the place of religion in liberal democracy.

North American and European scholars have been engaged in fierce debate over the meaning

of secularization. According to sociologist José Casanova (2006: 16), for a long time scholarly debate was fruitlessly divided between North American scholars arguing that secularization was an artificial European construct, and that it did not follow directly from modernity, and European scholars claiming that secularization was empirically irrefutable, a linear *fait accompli* that originated in the European Renaissance, was strengthened during the Enlightenment and the French Revolution, and became consolidated with the liberal fight to separate church and state. In France, secularization's *coup de grâce* came with the 1905 Law on the Separation of Church and State, the backbone of the French principle of *laïcité*. Other European countries have followed their particular trajectories toward secularization (Swatos and Olson 2000).

Casanova convincingly argued that to bridge the divide between North American and European interpretations required decoupling the concept of secularization on several distinct levels. Secularization, in Casanova's view, entails 1) independence from religious institutions, 2) the decline of religious belief and practice, and 3) the relegation of religion to the private sphere. According to Casanova, even though on a global scale the second and third components have not occurred, the European case has been different to the extent that a "progressive, though highly uneven, secularization of [the continent] is an undeniable social fact. An increasing majority of the European population has ceased participating in traditional religious practices, at least on a regular basis, even though they may still maintain relatively high levels of private individual religious beliefs" (Casanova 2006: 17). New scholarship is premised upon the idea that divisions between the religious and secular spheres have resulted from social dynamics that are constantly renegotiated. Thus, "entanglements of religion and politics must be viewed as sites in which the boundaries between religion and secular spheres are negotiated, challenged, and redrawn" (Wohlrab-Sahr and Burchardt 2012: 882). The ways in which these boundaries have

been negotiated in democratic Spain form the core themes of this article.

It took less than a decade after Francisco Franco's death, in November 1975, for the influence of the Catholic Church over ordinary Spaniards to decrease considerably. While 86 percent of Spaniards considered themselves Catholic in 1984, the number of practicing Catholics dropped from about 56 percent to 31 percent between 1976 and 1983. During the same period, Spaniards came to accept: contraception (65 percent), the dissolution of Catholic marriages (47 percent), and the relaxation of premarital sexual relations (45 percent). Moreover, 43 percent of Spaniards believed the church should not have any influence over government (Pérez Díaz 1993: 173-175). Thirty years later, in 2014, the number of Spaniards considering themselves Catholic had dropped a further 16 percent, to 69.4 percent of the population, while only 13.8 percent attended mass regularly (CIS 2014). While it is undeniable that the second component of Casanova's definition of secularism—a decline of religious beliefs and practices—applies to the Spanish case, state institutions in Spain are not yet entirely independent from religious institutions, particularly in the area of education. Moreover, the relegation of religion to the private sphere has been vigorously contested by many Catholics.

This article argues that while practicing Muslims, Catholics, Jews, and Protestants have contributed to a generalized increase in religious observance in Spain since 1975, the main opponent of state neutrality on religious matters has been the Catholic Church and its powerful lobby of native Catholics who fear a loss of traditional privileges dating back to the Franco dictatorship and before.

### **The Catholic Church and the Spanish Transition to Democracy**

The transformation of the Catholic Church after the religious wars of the sixteenth and seventeenth centuries has entailed a struggle against modernity, capitalism, the modern state, and, eventually, against liberal democracy and secu-

lar culture. As Victor Pérez Díaz has put it, "all these institutions implied a curtailment of the church's power, a reduction of its influence, and competition for its souls." Indeed, only in the last fifty years or so has the church "made its peace with [the] world, and only in the Second Vatican Council has it officially recognized this" (Pérez Díaz 1993: 123).

Political events delayed, and even limited, the development of this process in Spain. The Franco regime (1939-75), seeking to legitimize itself at the close of the Spanish Civil War, adopted Catholicism, the majority religion in Spain, as the official religion of the state. This brought about a symbiotic relationship between the church and the regime, known as national-Catholicism. Under Franco, the Catholic Church was given a prominent role in shaping social policies, like education and marriage, and was incorporated into the state structure through the subsidies its cathedrals and parishes received and by the salaries of clerics and teachers, which were paid for by the state. A Concordat with the Holy See, signed in 1953, confirmed the public status of the church, paving the way for the imposition of church influence on matters both public and private.

The relationship between the Francoist state and the Spanish Catholic Church began to change after Pope John XXIII convened the Second Vatican Council in 1962, known as Vatican II. At Vatican II it was acknowledged that the church had often failed to side with the poor, as well as the development of human rights and democracy—a failure exemplified by the Spanish church. Through *Gaudium et Spes* ("Joy and Hope"), the Pastoral Constitution on the Church in the Modern World, Vatican II also recognized the separation and autonomy of the secular and religious spheres (1965c). Through *Nostra Aetate* ("In Our Time"), moreover, Vatican II encouraged Catholics to embrace religious freedom and respect non-Christian religions (1965b).

In Spain, Vatican II triggered legislative change that would culminate in the passing of the Religious Freedom Act of 1967. It also forced a reluc-

tant Spanish church to revisit its relationship with the belligerently confessional Francoist state, and, eventually, to accept that it must operate in a “market” of religious beliefs. Of course these changes were not felt immediately, for the simple reason that it took several years for the majority of the church’s hierarchy to be convinced that the regime, and its brand of national-Catholicism, had no future (Pérez Díaz 1993: 153). In 1973, the Synod of Spanish Bishops approved the lengthy document “The Church and the Political Community,” and the Spanish church was finally disassociated from the Franco regime. In its place, the church sought a new, mutually independent collaboration with the state, and the Synod of Spanish Bishops declared the church to be neutral in political matters and committed to political and religious pluralism (Conferencia Episcopal Española 1973).

By 1976, it was clear to both the recently-crowned king, Juan Carlos I, and the first post-Franco government, led by Carlos Arias Navarro, that relations between the church and the Spanish state had to be revisited. To this end, the government entered into a series of negotiations with the Vatican. But while the government had hoped to conclude these talks in a timely manner, church representatives were more concerned about preserving their status and prerogatives than pleasing the government. While the negotiations were largely cordial, they were “not easy,” according to Minister of Foreign Affairs Marcelino Oreja (Callahan 2000: 554). Nor were they quick—in fact, they lasted from 1976 to 1979, when the final four agreements between the Spanish state and the Vatican were signed.

The fact that talks had started before a democratic framework was fully established, and that they were led by the centrist Unión de Centro Democrático (UCD), a party strongly connected to the church hierarchy, naturally created tensions. In 1977, Socialist deputies raised the question of whether the government’s negotiations with the Vatican were compatible with a yet-to-be-written democratic constitution and demanded full disclosure to Congress of nego-

tations conducted thus far, as well as a suspension of any further talks with the Vatican until a constitution determined the principles by which church-state relations would henceforth be governed (Callahan 2000: 554).

With the 1978 Constitution, the church was ultimately forced to embrace the principles of religious freedom and a non-denominational state (“No confession will have a state character”). It also embraced a constitutional guarantee of cooperation between the state, the Catholic Church, and other denominations: “The public authorities shall take the religious beliefs of Spanish society into account and shall consequently maintain appropriate cooperation with the Catholic Church and the other confessions” (Art. 16.3).<sup>1</sup> Yet the Constitution struck a compromise between the idea of a religiously neutral secular state, based on the model of the French Republic and supported by the Socialist and Communist parties, and a state, supported by conservative parties and the Catholic Church, that recognized religion’s positive contribution to society by enacting a constitutionally recognized juridical status—beyond a vague recognition of the right of religious freedom—for all confessions. The one conception entailed a path towards the privatization of religious practice and a stricter separation of church and state, while the other granted churches special status. The 1978 Constitution lay somewhere in the middle: it avoided the strict separation of church and state by obligating the government to cooperate with religious confessions, but these confessions were not themselves protected by any special juridical status.

By 1978 the church had already foreseen further conflict with the state over things like education, divorce, and abortion; it thus sought some sort of constitutional recognition of its position in Spanish society that could give it influence over the political process. It had some success in this regard. In particular, the drafters of the Con-

<sup>1</sup> SPANISH CONSTITUTION. 1978. [http://www.se-nado.es/constitu\\_i/indices/consti\\_ing.pdf](http://www.se-nado.es/constitu_i/indices/consti_ing.pdf).

stitution recognized the so-called “sociological fact”—the notion that the Spanish Church was a fact of life in Spanish society, one the state was bound to respect.

To this end, four Agreements of Cooperation between the Spanish government and the Vatican were signed in 1979. While three of the Agreements—related to legal and financial matters and religious and military services—were approved by substantial majorities in Congress, the one covering education was opposed by both the Socialists and the Communists.<sup>2</sup> According to historian William Callahan, the Agreements, for all practical purposes, “constituted a new concordat, although neither party wished to use a term that had fallen from favour in the post-Vatican II world” (2000: 554-5). The Spanish Church was thus granted special treatment that was not available to other religious groups.

Among scholars who have sought to analyse the post-Franco Transition, there has been sustained controversy over the role of elites and civil society in the establishment of democracy. Many have argued that the key factor in the country’s successful democratization was elite agency—namely, the ability of certain politicians, such as the first democratically elected prime minister of the post-Franco period, Adolfo Suárez, to find common ground with Francoist supporters (O’Donnell, Schmitter and Whitehead 1986; Gunther 1992). Others have contradicted this claim by arguing that the Transition cannot be understood by elite agency alone: rather, such agency was conditioned by the demands of a diverse group of civil society organizations—and not just trade unions, but women’s groups and neighbourhood associations as well (Pérez-Díaz 1993; Radcliff 2011).

While these debates remain unresolved (Encarnación 2003), there is widespread agreement concerning the contribution of the Catho-

lic Church. Political Scientist Omar Encarnación argues that the Catholic Church’s “policy of neutrality with respect to the transition to democracy” had enormous political ramifications—indeed it dealt “a final blow to Francoism” (2008: 84). A dominant narrative of the late-Franco period argues that Vatican II shifted the church’s priorities, which helped the Spanish Church to distance itself from the regime. The church’s repudiation of Franco’s national-Catholicism and its subsequent embrace of religious pluralism, albeit very slow, were fuelled by the pro-democratic position of the Synod of Bishops under Cardinal Vicente Enrique y Tarracón, as well as the demands of many younger priests who were committed to helping their congregations weather the adverse effects of mass internal migration and rapid urbanization. These were the famous “*curas obreros*,” or worker-priests, who criticized the state-sponsored Francoist labour union, and defended independent labour unions’ right to strike.

In his influential study of the Transition, Víctor Pérez Díaz calls the 1970s a period of “moderate euphoria,” since the Catholic Church had succeeded at the extremely delicate task of distancing itself from authoritarian power and embracing a liberal democratic regime; “the church was [thus] reliving an experience of co-protagonism in the events of the transition to democracy” (1993: 124). More recent scholarship has questioned how overt this embrace of democratic politics actually was; it highlights instead the indirect role played by some church officials who, for example, allowed opposition organizations to use church infrastructure to avoid the wrath of Francoist authorities (Radcliff 2007).

However, debates over the church’s role in the Transition have tended to obscure the less congenial position adopted by the Catholic Church vis-à-vis the Spanish state since 1982. This is especially true when looking at the conflict over education. It is perhaps more fruitful to consider the Transition as merely a temporary consensus—one that began to unravel in short order—concerning the ideal type of political settlement to bring about

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<sup>2</sup> “Instrument of Ratification of the Agreement between the Spanish State and Holy See on Education and Cultural Matters,” Signed in Vatican City on January 3, 1979, *BOE* 300, December 15, 1979, 28784-28785.

an end to authoritarianism. Moreover, recognizing the limits of consensus during the Transition helps us to understand why certain issues, such as the role of the Catholic Church in public education, became so contentious so quickly.

### **Democratic Consolidation and the Demands of Organized Religion**

The myth of a durable consensus between church and state actors must be replaced by a more nuanced understanding of politics as an arena of evolution and negotiation. The different roles played by religious officials during the period of democratic consolidation and deepening are best understood by looking at how the church and other confessions negotiated their relationship with the state, how religious and secular interests fought for public space, and how the church attempted to project its moral outlook onto public policy.

For the Catholic Church, the Transition entailed “a passage from triumphalism to humility” (Echarren Istúriz 1999: 424), or, to put it in slightly different terms, a move “from a system of privilege to one of rights” (Callaghan 2000: 554). Pérez Díaz, viewing this evolution in a broader context, argues that the church was “furious in the thirties, exalted in the forties and fifties, troubled and inquiring in the sixties, moderately euphoric throughout the seventies, and discreet, showing a sense of both satisfaction and disillusion, since the eighties” (1993: 123).

The earliest period of democratic consolidation, from 1982 to 1996—which happened to coincide with several Socialist governments in Madrid—was a difficult time for the Church. The earlier centrist government had passed a divorce law in 1981 and the subsequent Socialist government partially de-criminalized abortion in 1985. Such measures forced the church to maintain a prudent distance from democratizing elites. Historian Gregorio Alonso reminds us that during this period the church hierarchy largely returned to a pre-Vatican II isolation from civil society and popular demands. The church’s staunch defence of narrowly defined Catholic values and morals,

and its extensive demands in education, thus made it an unlikely ally of democratizing parties and progressive actors (2011: 127).

The church’s options during this period were limited by its recent history. Had it chosen to mobilize the Catholic masses against the authoritarian order, it could have sown the seeds for the development of a pro-democratic, Catholic social movement similar to those promoted by the church in communist countries (Encarnación 2008: 84). Pérez Díaz argues that the deliberate failure on the part of the Catholic hierarchy to create a Christian-democratic party contributed to the cordial relations between the newly-emergent political class and the church (1993: 170). While this is to some extent true, it also reduced the church’s influence over more grassroots political activity in Spain.

Indeed, the consolidation period resulted in the emergence of new religious actors who had not been visible during the Transition. The Catholic Church could have welcomed these individuals and joined forces with them in its fight against the privatization of religion and its attempt to introduce its moral outlook on legislation and public policy. Notwithstanding occasional cooperation between grassroots Catholic organizations and religious minorities, for instance in 2000, when a Catholic Church in the Barcelonan neighbourhood of el Raval offered temporary prayer space for a Pakistani Muslim religious association who was unable to secure it otherwise (Guia 2014: 109-111), the Catholic Church has viewed minority religions as competitors in the marketplace of religious ideas and as challengers to its privileged relationship with the state.

### **Muslim Demands for Equal Treatment**

Muslim organizations had been steadily growing in Spain since the late 1960s, when Muslim leaders in the North African city of Melilla—part of Spain since 1497—began lobbying for the extension of the rights and privileges enjoyed by the vast majority of Spanish citizens. This process was accelerated by the approval of the Religious Freedom Act of 1980. In 1992, the Socialist govern-

ment signed an Agreement of Cooperation with Spanish Muslims.<sup>3</sup> It was the goal of the Socialists to use the 500th anniversary of the Christian conquest of Granada and the expulsion of Spanish Jews to mark a reversal in the religious policies of the preceding centuries. Spain was also hosting the 1992 Olympic Games in Barcelona, as well as the Universal Exposition of Cultures in Seville, and the government knew that the country's international image and democratic credentials would be enhanced by an official recognition of its religious minorities. By simultaneously signing with Protestants, Jews, and Muslims, the government acknowledged each of these groups as "deeply rooted" (*notorio arraigo*), thus committing the state to the encouragement and protection of religious pluralism in Spain.

A precondition for the signing of the 1992 Agreement was the creation of a nation-wide organization that could speak on behalf of Spanish Muslims. (Negotiations with Protestants and Jews, who already had nation-wide federations, went more smoothly as a result). Yet Muslim leaders were often unsuccessful in their attempts to present a united front. For example, in negotiations to establish the Federation of Islamic Religious Entities of Spain (FEERI), which took place in 1989, predictable disagreements emerged and Riay Tatory Bakry, a Syrian-born physician and the imam of Madrid's largest mosque at the time, decided to create an alternative group called the Union of Islamic Communities in Spain (UCIDE) (Tatory Bakry 2006). The government refused to deal with two separate and feuding organizations, and instead forced them to come together under one banner, the Islamic Commission of Spain (CIE). The Agreement stipulated that the CIE would be in charge of monitoring its implementation with the oversight of two secretaries-general, one from FEERI, the other from UCIDE. It was a compromise destined to fail (Iglésias Martínez 2004).

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<sup>3</sup> Law 26/1992, on Approval of a Cooperative Agreement between the State and the Islamic Commission of Spain, November 10, 1992, *BOE* 272, November 12, 1992, 38214-38217.

The 1992 Agreement of Cooperation was nonetheless a milestone. For the first time in modern Spanish history, Islam would receive official recognition and its public practice would be protected throughout the country; the Agreement's preamble even recognized Islam's "important role in the formation of Spanish identity."<sup>4</sup> The Agreement granted imams special privileges, offered tax relief to groups registered with the Ministry of Justice, and conferred legal protections on Islamic religious buildings and cemeteries as sacred spaces. It also recognized Islamic marriage, with the exception of polygamy, on an equal footing with Catholic and civil marriage. The government agreed to accommodate Muslim religious practices—like dietary restrictions—in prisons, hospitals, schools, and other public institutions, including the military. Finally, the Agreement recognized religious festivals, the need to regulate halal food production, and the need to preserve Spain's Islamic artistic and historic heritage. The CIE was in charge of defending religious practices, training and appointing imams, and overlooking Islamic instruction in the public school system.

The Agreement also encouraged the creation of new Muslim organizations affiliated with one of the existing federations. According to Spain's Registry of Religious Entities, the number of Muslim groups thus increased steadily to fifty-one in 1994, seventy in 1996, 176 in 2001, and 616 in 2011 (the latest published data). In twenty years, the number had multiplied by a factor of thirty (Guia 2014: 82).

While on paper, the Agreement created one of the most progressive frameworks for the treatment of Islamic minorities in Europe, it paled in comparison to the privileges accorded to the Catholic Church. For example, the financial agreement between Catholics and the state included a provision for "adequate funding," which allowed taxpayers to allocate a portion of their income tax revenue directly to the Church. The church also enjoyed tax exemptions, such

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<sup>4</sup> *Ibid.*, 38215.

as value-added and property tax. Only the latter was extended to other religious groups.

Among the privileges available to the Catholic Church that were excluded from the Agreement with Muslims was a provision for state funding of recognized Muslim institutions. Mansur Escudero, a psychiatrist from Córdoba who led Spanish converts and was a secretary-general of the CIE from 1991 to 2006, blamed Tatory, his co-secretary-general, for this disparity; he claimed it forced Spanish Muslims to rely on foreign capital for their religious needs (González 1999). According to Escudero (1998), Tatory had more direct access to government funding because he was a member of the Ministry of Justice's Advisory Commission on Religious Freedom, though Tatory did not view foreign funds as an issue as long as they came from a variety of sources (Tatory Bakry 2006). Escudero believed that without state funding, Spanish Muslims would be entirely dependent on foreign donors, and would thus have to accept whatever theological or political interference was involved (Guia 2014: 78-87).

While the Spanish Constitution guarantees equal treatment of minority confessions by the state—including access to public funds on par with that enjoyed by the Catholic Church—the imbalance remains egregious. In 2005, the Catholic Church received 141 million euros in tax revenue, compared to a mere 3 million euros for Jewish, Muslim, and Protestant groups combined. Moreover, while the government paid the salaries of 15,000 Catholic school teachers, only 100 Protestant and 36 Islamic teachers were hired with public funds. As for private schools receiving public subsidies, a similar imbalance exists, with 1,860 Catholic schools versus just four Protestant and two Jewish schools (Guia 2014: 83-4). This financial gap has only increased.

Escudero called on Madrid to fund Islam to the same extent that it funded Catholicism. He also asked that citizens be allowed to make income tax contributions to minority religious institutions in the same way that they could contribute to the Catholic Church. The Socialist government

sidestepped these requests by arguing that the income tax provision was “a transitory measure that was a hangover from the Spanish state's former support of Catholicism and [as such] would soon disappear” (Escudero 1998: 12). Conservative governments were likewise uninterested in pursuing equality of treatment, though for very different reasons: they preferred maintaining the status quo—or even altering it in favour of the Catholic Church—in order to please their well-organized Catholic supporters.

Muslim representatives in Spain were becoming disillusioned with successive governments' lack of will when it came to implementing the Agreement, something they now described as a “*papel mojado*”, a worthless piece of paper that failed to protect Muslim rights (Escudero 1998: 12). Mohammed Chaib, founder of the immigrant association Ibn Battuta, and a Socialist member of the Catalan Parliament from 2003 to 2011, described the various governments' treatment of religious minorities as “chaotic and catastrophic.” As he pointed out, “[n]one of the points fleshed out in 1992 when the Islamic Commission of Spain was created has been fulfilled. Not religious teaching in schools, not freedom of religion—not one” (Chaib 2005: 42).

While the state did not actively pursue the violation of Muslim religious rights, this was an inevitable result of simple government inaction. Local and regional authorities were reluctant to implement the Agreement, and Madrid was less than enthusiastic when it came to forcing the issue. The Muslim vote was still scant and a strong pro-Muslim stance might alienate the large, well-organized contingent of Catholic voters. Implementation and enforcement of the Agreement was more extensive when the Socialist Party was in power—both under Felipe González (1982-96) and José Rodríguez Zapatero (2004-11)—as the Socialists were committed to eliminating the privileged position of the Catholic Church. Moreover, when some Muslims who were members of the Socialist Party demanded equality among confessions, party leaders were therefore more likely to act. Conversely, while the conservatives

were in power, from 1996 to 2004, the national government did little to implement the Agreement, claiming that the two Muslim federations could not agree on a common path.

During this period Escudero warned that the Spanish government “needs to understand that Islam is part of Spanish culture. Either [it] backs a home-grown reformist Muslim agenda or leaves it to foreign powers” (Valenzuela 2002). Jadicha Candela, a lawyer and member of the Socialist Party, echoed this criticism of the government’s policies: “In the end the government preferred Muslims who did not ask for money, subsidies, or Islamic teachers in public schools, but rather turned to Saudi Arabia for mosques ... Later ... the government will realize that in those mosques that were erected for free, a much more radical Islam will have arisen” (Guia 2014: 85).

For Spanish Muslims, the protection of religious practice and equal access to the public sphere were of vital importance, though they were largely taken for granted by Catholics. The success of a religious transition thus depended on the state’s recognition of things like dietary needs and ritual practices, as well as guaranteed access to prayer sites—something that took on heightened significance in the early 1990s, when the construction of new mosques were increasingly challenged by neighbourhood coalitions.

Between 1990 and 2008, ethnic Spaniards opposed proposals to build mosques and prayer rooms in sixty Spanish towns, forty—or 67 percent—of which were located in Catalonia. These conflicts were triggered by Muslim attempts to move from small prayer sites to newer, larger buildings; by the renovation of existing spaces; or by attempts to construct purpose-built, grand mosques (Moreras 2009). These conflicts were also related to the newfound visibility of, and claim of permanence made by, various local Muslim communities in Spain. Of course, the disparities between Muslim and non-Muslim populations in terms of their access to public space, enjoyment of public resources, and protection by public authorities, only exacerbated these conflicts.

Indeed, as Tariq Modood and Riva Kastoryano have pointed out, a general trend across Europe has hindered Muslims’ access to the public sphere in recent decades:

Those citizens whose moral, ethnic or religious communal identities are most adequately reflected in the political identity of the regime, those citizens whose private identity fits most comfortably with this political identity, will feel least the force of a rigidly enforced public/private distinction. They may only become aware of its coercive influence when they have to share the public domain with persons from other communities, persons who may also wish the identity of the political community to reflect something of their own community too (2006: 170).

Spanish society tends to view Muslim demands for equal access to public space as illegitimate, a challenge to the status quo, while Catholic encroachment is somehow acceptable, customary, even banal. Indeed, many ethnic Spaniards—even atheists or agnostics—celebrate a variety of Catholic holidays. As Mohammed Chaib has written, “[t]hose who fear losing the secular state and who harden in the face of a group subconscious filled with battles of Moors and Christians and re-conquests of El Cid, often forget that ... they bring flowers to the cemetery every November 1st [All Saints’ Day]” (2005: 127).

Indeed, over half of national statutory holidays in Spain are Catholic. If one accounts for regional and municipal statutory holidays as well, it is difficult to celebrate anything in Spain that is not related in some way to Catholicism. While this is largely habitual, it has also been fervently defended by the church and its supporters. When the Socialist government attempted to eliminate the Festivity of the Immaculate Conception on December 8, just two days after another statutory holiday (Constitutional Day), church supporters mounted stiff resistance, and the government was forced to backtrack. Yet other confessions have not been offered the same prerogatives. Only in the North African cities of Ceuta and Melilla, where Muslims form over a third of the population, has a non-Catholic religious holiday been recognized: *Eid al-Adha*, the Feast of the

Sacrifice, was introduced as a statutory holiday in 2010 by local governments. This was the first Islamic statutory holiday introduced not just in Spain, but in Europe as a whole—perhaps a sign of changes to come in areas with a significant Muslim population (López Bueno 2013: 234-6).

### **Education: A Low-Key Battleground**

In the nearly four decades since democracy was established in Spain, the Catholic Church has had many disagreements with the state. Some have come out of the church's efforts to retain a monopoly over spiritual power and insert its moral precepts into public policy; others from the church's refusal to recognize the equality of other confessions. Others still are related to church demands that public servants adopt an exemplary moral character in line with a Catholic worldview. In these conflicts and in spite of strong internal disagreements among Catholic institutions at times (Griera 2007), the Catholic Church has not only utilized the resources available to the official church apparatus—papacy, episcopate, secular clergy, and religious orders—but also an increasingly planned and militant laity, or community of believers. This is particularly true when lay groups have protested in favour of what they call "traditional family values," and against same-sex marriage and the decriminalization of abortion.

The most sustained battleground, however, has been education reform, since it was in this area that the Catholic Church had the most to lose if secularizing forces were to gain ground. The church's hold on education in Spain had been cemented with the signing of the Concordat of 1953, which reaffirmed the church's right to monitor the orthodoxy and morality of all aspects of education (Boyd 1997: 274). The church took advantage of these favourable conditions to construct an extensive network of schools that received substantial government financial support, particularly after the approval of the 1970 Education Act. Thus, "[b]y 1976, nearly 2 million students were registered in the church's primary and secondary schools," a figure that made up

more than a third of the total number of Spanish students (Callahan 2000: 556).

Under Francoism, relations between the Catholic Church and the Spanish state were largely cordial, yet by 1970 the church was disparaging the new General Law of Education as "Statist" (Boyd 1997: 282-83). The church was steadfast in its belief that Catholic representatives should determine the curriculum of educational structures under church supervision, and it began to resent the attempts of state authorities to control curriculum and reorganize student catchment areas.

Vatican II would establish the road map for education the Spanish Church would follow in the wake of Franco's death. Vatican II's "*Gravissimum Educationis*" acknowledged that the church "has a role in the progress and development of education." Of course, private Catholic schools and universities could play an unrestricted role in their respective institutions, but the church's influence would be severely limited if it had to rely only on those who could afford an expensive private education. Yet Vatican II conceded the primary and inalienable right and duty of parents to educate their children in true liberty, which could only be guaranteed by their free choice of schools. "Consequently, the public power ... must see to it... that public subsidies are paid out in such a way that parents are truly free to choose according to their conscience the schools they want for their children" (Pope Paul VI 1965a). In this line, the Spanish Catholic Church obtained a significant victory with the 1978 Constitution; Article 27.3 gave legal validation to some of the church's key demands—for example, that "public authorities guarantee the right of parents to ensure that their children receive religious and moral instruction in accordance with their own convictions."

The 1979 Agreement of Cooperation on educational matters was of great importance for the future position of the Spanish Church who aimed to secure Catholic instruction in public schools and public subsidies for its network of privately-owned religious schools. One consequence of

the 1978 Constitution was that students in public schools were no longer obliged to attend religion classes. For Vatican II, the defence of Catholic education in non-Catholic schools was of vital importance, as was the provision of publicly-funded religious instruction by teachers chosen by the Church. As Pope Paul VI himself stated, “the Church esteems highly those civil authorities and societies which, bearing in mind the pluralism of contemporary society and respecting religious freedom, assist families so that the education of their children can be imparted in all schools according to the individual moral and religious principles of the families” (Pope Paul VI 1965a).

Religious instruction in public schools by itself would not have satisfied the church; of equal importance was the continuation of government financial support for its extensive network of private religious schools. According to Callahan, the “hierarchy expected that Church schools would receive the same level of funding as the public system” (2000: 557). Indeed, the church hierarchy tended to view the public funding of private religious schools not as a privilege, but rather as an integral part of a single national educational system. The 1979 Agreement on education acknowledged a general principle of “equality of opportunities” for students attending private religious schools and those attending public schools, but left the extent of public funding undetermined (Callahan 2000: 558).

While the majority Socialist government elected in 1982 declared its intention to observe the Agreement with the Holy See—an attempt to forge a “definitive pacification” of the historical conflicts between church and state (Callahan 2000: 274)—its decriminalization of abortion, its strict control of the financing and management of church schools, and its attempts to curtail subsidies for clerical salaries reignited these very same conflicts. The Socialist government did not entirely undo the consensus on religious matters forged during the Transition, but it certainly understood this consensus in very narrow terms.

While the Education Law of 1980 did not interfere with the generous subsidies enjoyed by church schools, the approval, in 1983, of a new education law provoked passionate parliamentary debate, large street demonstrations, and heated exchanges between church representatives and the state, with the church officials arguing that the Socialist government was trying to eliminate religious education through “starvation and asphyxiation” (Callahan 2000: 589). To a large extent the controversy revolved around questions of funding and control. For its part, the government refused to continue providing an equal funding formula for secular and religious schools; it also challenged the independence of religious schools by mandating that all institutions using public funds be administered by elected councils comprised of members of the school’s legal proprietors, teachers, parents, students, and non-academic staff. Moreover, state-subsidized schools were obliged to modify their admission criteria so as to accept more students from the neighbourhoods they occupied. They were obliged to recognize the academic freedom of teachers, and the freedom of thought of teachers and students alike, who could no longer be required to attend religious services or live their private lives according to the church’s moral teachings. Of course, such measures were perceived by many as an affront to the “Catholic identity” of private religious schools (Callahan 2000: 590-91), and from 1983 onwards, every new education law would provoke controversy and disagreement between Catholic and secularizing forces.

Though minority confessions would fight after 1992 to enshrine their constitutional right to religious instruction within the public schools, the constraints imposed by the conflicts between the church and various Socialist governments could only bring about limited successes. In 1993, the CIE created the curriculum for an Islamic course to be taught in public schools, and in 1996 it signed an accord with the Socialist government to pay for the salaries of trained Islamic teachers. Yet school authorities and civil servants in the

regional ministries of education were nonetheless reluctant to hire teachers of Islam—something the national government did not promote, effectively hindering the introduction of Islamic education in public schools. Escudero complained that schools failed to inform parents and students they had as much right to study Islam as they did Catholicism (Escudero 1998: 13). When the national government shifted to the right in 1996, things did not improve.

Once the Socialists were back in government in 2004, they resumed their attempt at completing the religious transition. The funding of Islamic education in public schools was made mandatory whenever ten or more students requested it as an elective. However, since education is a shared jurisdiction, the law had to be advertised and implemented by regional governments, many of which enforced it reluctantly and unequally—particularly since it required most regions to pay the salaries of Islamic teachers. In some areas, educational authorities attempted to manoeuvre around the state's laws on religious education by doing away with Islamic and Catholic instruction altogether, and offering a joint secular course in the history of religion instead. Only in Ceuta, Melilla, and Andalusia—where the national Ministry of Education pays salaries directly—were teachers of Islam hired according to the law. By 2005, only 36 teachers of Islam were active in the public system across Spain (Guia 2014: 83-84). Ten years later, in 2015, the number has only reached 46 (Casa Árabe 2011), a very paltry increase as estimates indicate the demand requires something closer to 450 (Berglund 2015: 28). In 2012, there were 2,953 teachers of Catholicism in Spain, at a cost to taxpayers of 94.2 million Euros (EFE ECONOMIA 2013).

Though Article 10 of the Agreement of Cooperation states that Muslim students are guaranteed the right to Islamic religious instruction in public schools and subsidized private schools, its implementation has been highly uneven (Lorenzo and Peña 2004; Álvarez et al. 2009). The recent lobbying efforts of certain Muslim organizations—

such as the Islamic Commission of Spain, led by Mounir Benjelloun since 2012, a Moroccan-born Muslim leader from the region of Murcia, or Educaislam, led by convert, educator, and activist Natalia Andújar—have successfully pressured the government to pass a resolution detailing an official curriculum for Islamic religious instruction for Spanish primary schools in 2014.<sup>5</sup> This is a first step toward securing the rights of Muslim children to receive Islamic instruction in Spanish schools. However, no private Islamic school receives public funds in the way that thousands of Catholic schools do. A clear sign of the completion of the religious transition would be the tangible promotion of Islamic education in public schools by the state, the extension of public subsidies to private Islamic schools, and the public endorsement of the construction of new mosques.

However, not all devout Muslims agree on the need for Islamic education; some, albeit a minority, feel it is an “unreasonable demand.” The Catalan-Moroccan Socialist Mohamed Chaib claims that “[w]e as a society have more important questions to resolve than Islamic teaching in schools,” and continues to argue:

It's important to remember that schools are not the place to teach religion, any religion. The big problem I see for our society is that we can't tell Muslims that natives have the right to learn Catholicism at school while Muslims don't have the right to learn Islam. This constitutes visible discrimination.... Religion is for the private sphere, in churches and mosques, but not schools, not as doctrine, only as a course in the history and culture of world religions (Chaib 2005: 66-67).

### Education and the Myth of Consensus

Omar Encarnación and others have started locating the exact point at which the consensus of the Transition years began to unravel, with Encarnación (2008) arguing that a “second transition” began during the two governments headed by

<sup>5</sup> RESOLUTION 12886, approving curriculum for Islamic religious instruction in primary school, *BOE* 299, December 11, 2014, 101207-101233.

the Socialist José Luis Rodríguez Zapatero from 2004 to 2011. Zapatero's substantial reforms in the areas of the historical memory of the Spanish Civil War, abortion, same-sex marriage, and support for the reform of the Autonomous Statute of Catalonia altered the consensus achieved in the Transition period to such an extent that we may indeed speak of a second Transition.

The problem with this interpretation is that it implies that the consensus achieved during the first Transition held until the second—a view that obscures the ways in which certain aspects of the Transition remained incomplete throughout. Conflicts between church and state over education show the limitations of thinking of the consensus achieved during the Transition as stable and durable. In education especially, the consensus embodied by the 1978 Constitution began to crumble with the Socialist and Communist opposition to the 1979 Agreement of Cooperation on Educational Matters, and received a further blow with the Catholic opposition to the 1983 law on education.

Encarnación has spoken of the challenges to the Transition consensus sparked by the Conservative Party's formation of a majority government in 2000. This period was marked by the government's pursuit of "a more conservative political program that in some respects can be seen as the first significant departure from the politics of consensus of the post-Franco era" (2008: 62-63). Encarnación argues that one of the most radical policies implemented by the Conservative Party was its new educational curriculum in 2003. By making Vatican-approved religious instruction a compulsory subject in primary and secondary schools, it aimed to inculcate a new generation of Spaniards in traditionalist values, "to return education policy in Spain to its Francoist days," and to blur the "very delicate church-state division established by the architects of the 1978 constitution" (2008: 63).

Yet it would be misleading to think that the rightward turn after 2000 marked a sudden departure from the politics of consensus. At least in education, church and state had been re-

negotiating the limits of the "religious transition" for decades. In the dominant narrative of the Transition, the 1978 constitutional settlement between the Catholic Church and the Spanish state is often given more weight than it ever had in reality. While it is true that the Conservative's 2003 education law returned some of the privileges the Socialists had managed to take away from the church, this was more a single battle in the low-key war to control education than a wholesale dissolution of some ideal post-Francoist consensus. A Spanish Catholic Church in traditionalist hands was once again flexing its muscle and using the conservative majority in parliament to return the "religious transition" back to 1982.

Unsurprisingly, one of the priorities of the Zapatero administration after 2004 was the reformation of the Conservative's education law. These measures were of course opposed by the Catholic Church and its allies, since they limited parents' freedom to choose schools and decreased the academic status of now again voluntary religious education. The church and its supporters focused their energies on a new compulsory course called "Education for Citizenship and Human Rights." In particular, the church opposed the course's emphasis on sexuality and its positive portrayal of non-traditional families (Aguilar Fernández 2012). As soon as the Conservatives were elected again, in 2011, they eliminated the course and moved to extend the funding of religious schools.

In the realm of education reform, the Transition was not experienced as the erosion of one consensus and its replacement by another. Rather, education policy has unfolded in a back-and-forth manner, with very little agreement concerning the role of the Catholic Church and privately-owned, but state-subsidized, Catholic schools. The completion of a religious transition in education has meant irreconcilable things for secularist forces, on the one hand, long represented by the Socialist Party, and the Catholic Church and its numerous allies on the other.

### Conclusion

In 2008, Spain's Socialist government drafted a Religious Freedom Act. It was an attempt to update the 1980 Religious Freedom Act and to forge a definitive resolution to the ongoing battle between religious and secular forces by reinforcing a secular state. The draft of the 2008 law introduced the concept of "state *laïcité*" for the first time, and it tried to disentangle state authorities from religious involvement by, for example, eliminating Catholic state funerals. But after years of Catholic mobilization in the street against the legalization of abortion and same-sex marriage, and faced with an increasingly uncertain economic environment, the Act was hurriedly shelved. The debate over the role of the state in collecting tax funds exclusively for the Catholic Church, in giving generous tax breaks for property owned by the Catholic Church, in funding Catholic teaching in public schools and subsidizing private Catholic schools, remained unresolved. A similar move would eventually come from the opposite end of the political spectrum when the Conservative government, with the full support of the church, tried to pass an extremely restrictive abortion act in 2014, and widespread opposition from the left and centre forced the government to backtrack.

As a non-confessional state, one that is constitutionally obliged to cooperate with all major religions, Spain is equipped to manage these conflicts in a non-partisan manner. Yet the gap between institutional rhetoric and actual practice has endangered the religious and cultural rights of Spanish Muslims and other practitioners of minority religions. While radical secularists and militant Catholics oppose institutional compromises with minority confessions and the Catholic Church focuses on protecting its inherited privileges, a majority of Spaniards have adopted a less provocative approach to religion, one rooted in the compromises of the Transition and premised upon safeguarding religion's presence in the public sphere.

The ongoing efforts of the Catholic Church to maintain public funding of its sectarian activi-

ties; of the Socialist Party to introduce a French-inspired separation of church and state; and of minority confessions to implement the religious and cultural rights they were promised in 1992, indicate that Spain's religious transition is far from complete. What we have instead are some very uneven results. On the one hand, the failure to complete the religious transition has placed a burden on education: the conflict between church and the state have only hardened the divisions between public and private education systems, which in turn has prevented the formation of a nationwide consensus around educational priorities. As a result, the religious and cultural rights of minority confessions have not been given the proper consideration.

On the other hand, the religious transition, to the extent that it has succeeded, has allowed the Spanish government to strengthen the religious rights of minority confessions in ways that other European states have not. It has also led to the creation of a flexible institutional arrangement—one that is adept at accommodating religious pluralism—the likes of which could scarcely be imagined at the outset of the post-Francoist Transition. However, in spite of these developments, and in spite of the efforts of minority confessions to forge a truly non-confessional state, the gap between a legal framework for religious equality and the day-to-day experience of minority confessions remains unbridged.

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