Introduction

Exploring Political Concepts and Arguments in the Parliamentary Constitutional Debate of 1931

This book enquires how the Spanish constitutional debate of 1931 contributed to overhauling the political language. The debate took place in a constituent assembly formed after the general election of June 1931. There, between 27 August and 9 December 1931, members of parliament deliberated about the contents of a new Constitution. Through an examination of five determining debates, that is to say, those about the meaning of the state, the acknowledgement of social rights, the so-called religious question, property rights, and the presidential office, this research argues that the MPs' arguments presented in the debate produced conceptual innovations by updating the political language with a democratic vocabulary.

1 Goals of the Study

Democracy and Sovereignty in Spain aims to elucidate to what extent the Spanish constitutional debate of 1931 led to conceptual innovations. Debates of constituent assemblies are special loci of parliamentary deliberation. They provide the institutional setting and the intellectual context for classical political topics to be discussed, which opens up the chance for redefinitions and new interpretations.

More specifically, the main goal of this book is to focus on the uses of concepts by MPs in the context of parliamentary constitutional deliberations, where audiences, rules, and procedures are not the same as in other kinds of political meetings and assemblies. The semantics of concepts are revealed in connection with their use in the parliamentary arena, and not beyond its bounds, with the exception, in this case, of the ideas of state and religious freedom regarding the press.

These deliberations became a source of conceptual innovation. Constitutional debates are exercises of theoretical pondering over, for instance, the boundaries of state powers, individual liberties, or the functions of state institutions. They are distinguished by argumentative diversity. Institutional issues raised in constitution-writing periods are never settled definitely. Rather, constituent assemblies lead to public discussion of ideological dissent, which is part of the

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daily life of parliamentary activity. Unlike in newspapers or a party's own political meetings, in a parliament the adversary is the immediate audience.

2 The Rationale of Constituent Assemblies

Constituent assemblies have historically experienced the inconveniences of ordinary legislative bodies. Both face partisan division, which rather than being hazardous is part of parliamentary politics. In spite of that, ideological commitments often diminish the chance for bargaining and accomplishing transactions (Elster 2000: 348). Parliaments are not in this sense exceptional places of perfect rationality. They are instead places for genuine political deliberation (by its nature rationally imperfect, proceduralized, and porous to improvisation). Furthermore, due to their argumentative diversity, they become a source for interdisciplinary studies. Parliamentary deliberations stand never exclusively a matter of bargaining, but they are the deliberative loci par excellence where opposed views are contrasted.

Accommodations between the conflicting political interests of various agents did not hinder innovation and creativity by constituent representatives. They were rather an incentive. This blend of influences rooted in political traditions, legal theories, and comparative practices illustrates the intellectual challenges of constitution-making (Ginsburg 2012: 1–3).

Parliamentary politics is characterized by procedures and rhetorical practices that rely, ideally, on the argumentative activity of speaking *pro et contra* (Palonen 2019: 6). Parliamentary politics means that since MPs are candidates for a seat in parliament, they take part in a process where they can show their competence in parliamentary debates (Palonen 2019: 144). As a consequence of the adversarial practice of parliamentary democracy, parliaments are the battleground of rival political views, contrasted with each other through public debate. Constituent assemblies foreground argumentative exchanges and alternative proposals about every matter of constitutional debate. Further, through that practice, they carry out parliamentary debates that revise former institutions and design new ones.

3 An Interdisciplinary Approach to the Constituent Assembly

This book combines the approaches of conceptual history, political theory, and parliamentary constitutional history. By means of that interdisciplinary rationale, it examines the Spanish constitutional debate of 1931, assuming that in politics, concepts are clarified through that institutional frame of debate. As a consequence, conceptual creativity when using political terms and arguments is the result of multiple choices that are publicly debated. Terms acquire new meanings if contrasted with other instances and arguments than usual, either actual or imagined.

The analysis of political theory aspects in constitutional debates, from theories and arguments to intellectual contributions and ideological controversies, has scarcely been researched in the case of twentieth-century Spain.[1] This study selectively focuses on the deliberations around the powers and structure of the state, religious freedoms, and the meanings given to policies and reformism, together with the very idea of social rights, that were discussed during the months of September to November 1931. In that wise, it emphasizes the disputed significances of classical concepts such as sovereignty, constitution, state, reform, revolution, and freedom of conscience, primarily through a review of the argumentations of the MPs, but also by including the analyses made by intellectuals, scholars, and journalists, whether involved in or as witnesses of the constitutional debate, insofar as they complement the actions of the MPs. Other political concepts such as representation and federalism are not studied in this research. Even though these two ideas were also discussed in some moments of the constitutional debate, their meanings were much lesser contested.

Conceptual history deals with historical semantics, with the meanings of terms in a certain historical context or in various historical moments.[2] Nowadays, it often applies to the interdisciplinary analysis of ideas and values practised in social, legal, and political history, among other disciplines. Through the methodology of conceptual history, changes in the meanings of political terms can be disclosed. Conceptual history helps to identify them and to explain the meanings that their uses underline.

Concepts such as state, parliament, constitution, and revolution were used throughout the entire constitutional debate, whereas others such as sovereignty, reform, and freedom of conscience are tied to specific issues of the debate (religious freedom, partial decentralization of the state, and property rights). The five debates here selected, each of them the subject of its own chapter, account for the key issues of contestation between the political parties involved.[3] They were ideologically diverse and, by the same token, richer than other topics in the Constituent Assembly from a conceptual point of view. The political theory arguments between the MPs, and the democratization of Spain itself in 1931, clearly showed a reversal of, or at least a deep change in, the prevailing political vocabulary.

This study presents an approach to assess the political controversies and the argumentative capacity of representatives in a parliamentary assembly. Combining political theory, conceptual history, and parliamentary history makes it possible to review the intellectual complexity of those debates that arose in constituent moments where "employing concepts is always an exercise in selectivity, whether deliberate or unintended, not an exercise in generating the totality of meanings" (Steinmetz and Freeden 2017: 25). The selection of topics in the book chapters brings to light some of the main political controversies of the time, which were similar to other constitutional debates in interwar Europe.

4 An Applied Case of Political Argumentation

From an argumentative perspective, this research has been articulated around two axes. One has a historical-contextual character, focusing on the idea of debating motions from a political agenda and its regulation in modern parliamentarism, following the practices of the Spanish Constituent Parliament (*Cortes Constituyentes*) of 1931 rather than a separate constitutional convention. Constitutional debates in parliament differ, in procedural and ideological terms, from a constitutional convention. In the former, members are elected by popular vote; in the latter, they are not. That fact explains why deliberations in parliament were open to a wider public debate. Only the Preliminary Draft of the Constitution and the Constitutional Draft were commissioned to legal scholars and MPs and so, were not debated in parliament.

The second axis is of an applied character. As a case study it selects specific political debates and conceptual controversies within the constitutional debate of 1931. That process ended in the passing of the Constitution of a new political regime, a democratic republic, widely influenced by interwar European trends of constitutionalism. Both axes are combined to pinpoint the various contributions of conceptual and political innovation from a synchronic perspective.

The development of the first axis is examined by focusing on different sessions of the political debate in each chapter. These studies summarize the ideological and partisan context of their contents. They attend both to the orientation of the constitutional debate and to the *pro et contra* arguments, trying to show how the parliament of 1931 was regulated by a permissive procedure which allowed for several argumentative devices. The speeches of the MPs frequently did not correspond to the positions held by either government or opposition. They illustrate the use of complex and fruitful approaches between parties and constituent members. The Provisional Rules of Procedure of the Constituent Assembly passed on 11 July 1931 were prepared by the provisional government. Partisanship, legal expertise, previous political experience, and a sense of responsibility were the main aspects involved in addressing how political agency took on a key role in each one of the selected debates. As a result, political deliberations gave rise to opposed argumentative and rhetorical strategies by proponents and adversaries. However, ideological concerns frequently arose that were contrary to partisan interests, since the MPs often exhibited strong disagreements around the issues at stake in the debate, even among fellow party members.

With regard to the second axis of study, the analysis of the constitutional debate of 1931 pays particular attention to the aspects of modern interwar politics that connected European political debates with new assumptions on the basic nature of the state and law and the acknowledgement of social rights. The politics of interwar parliamentarism in the twentieth century was influenced by the concept of the distribution of political power as a crucial new experience in democratic systems, as highlighted by Max Weber (Weber 1994: 311). Debates have the potential to make such political experiences visible, when contextualizing

rhetorical moves involved in the transition from the institutional frame to the realm of extra-parliamentary – or at least extra-institutional – discussions, to parliamentary politics.

This explains why conflicting ideas about the future role of the Spanish *Cortes* in the control of the executive arose. For example, the use of prerogatives to supervise and validate electoral processes was variously seen by MPs either as a necessary measure, or as a rebuttal of real parliamentary democracy.

5 State of the Art

Unlike the general trend in previous studies about the Spanish Second Republic, this book analyses in detail the ideological and argumentative framework of its Constituent Assembly of 1931. Thus, it aims to contrast the ideological diversity of the MPs' speeches, revealing their argumentative use of political ideas. By so doing, the diary of sessions provides a valuable tool to examine the role of MPs as they deliberated in the course of the constitutional sessions. Other approaches, instead, have mainly focused on the press, monographs, biographies, and, very selectively, some parliamentary speeches. A careful analysis of the records is indispensable to understand how the political language was upgraded. Contested political concepts gave the republican democracy its own distinctive historical features, heir to both the traditions of democratic liberalism and of interwar constitutionalism.

The contribution of this book to previous academic literature on the Second Republic, mostly published in Spanish, lies in the attention paid to the entire four-month process of constitutional debate (from 27 August to 9 December 1931). That thorough appraisal was the first step to propose an argumentative thread of five selected questions that enables any reader to understand the main issues that MPs aimed to address during the constitutional debate. It dismisses prefabricated assumptions exclusively based on a separate consideration of certain specific moments of the debate. The secondary bibliography addressing each one of these debates is discussed in the research.

In that sense this study contributes to the understanding of the constitutional debate of 1931 as a historical argumentative arena of conceptual disputes, in which political representatives argued their views about the institutions of the new democracy. The ideological diversity of the political parties and the argumentative performance of the MPs in the process of drafting the Constitution of 1931 are considered here in detail.

As journal articles are mentioned and discussed at large, for the purpose of this section I will focus on monographs. Two indispensable books for understanding the political language of the period are *Léxico y política de la Segunda República*,[4] by Juan F. García Santos and the *Diccionario político y social del siglo XX español*, edited by Javier Fernández Sebastián and Juan Francisco Fuentes.[5] Both provide a fruitful path to explore the changes in the political vocabulary of the Spanish Second Republic. García Santos develops a quantitative study

about the terms that were recorded in the press and in parliamentary debates between 1931 and 1939. Instead, Fernández Sebastián and Fuentes' edited dictionary deals with the histories of concepts that can be traced through their uses by political and social agents.

Nevertheless, research about interwar constitutionalism and its stamp on Spain keeps growing. There is an ongoing process of research aimed at more precisely identifying the influences on the legal scholars and MPs who took part in the creation of the Constitution of 1931. A number of qualified articles and monographs provide sound knowledge about the legal exchanges of that period, as the Spanish journal *Historia Constitucional* shows.

Two salient contributions are considered in this study: *El derecho político de la Segunda República*,[6] edited by Sebastián Martín Martín and, more recently, *Carl Schmitt en la Segunda República Española*, by Gabriel Guillén Kalle.[7] In the former, Sebastián Martín examines the contributions of three Spanish legal scholars to the institutional foundations of the republican democracy: Nicolás Pérez Serrano, Eduardo Luis Lloréns, and Francisco Ayala. In the latter, Gabriel Guillén delves into the stamp of Carl Schmitt's theories on Spanish scholars, both on those that welcomed republican democracy and on those others that opposed that regime.

The book edited by Manuel Álvarez Tardío and Fernando del Rey, *The Spanish Second Republic Revisited: From Democratic Hopes to Civil War (1931–1936)*, throws light on the ideologies that shaped the republican regime between 1931 and 1936.[8] The contributions collected in that book revise the ideological roots of political parties such as the Spanish Confederation of Autonomous Rights (CEDA) and the Spanish Communist Party since 1933.

It is particularly interesting from a research perspective Roberto Villa's chapter 'The Limits of Democratization: Elections and Political Culture'. He provides details that allow for an interpretation of the electoral processes of 1931 complementary to the one endorsed here. In Villa's view, the democratic competition during the Spanish Second Republic was not followed by a defined idea of republican democracy. Parties from all ideologies disagreed about the implications of that regime beyond partisan majorities. Alternation in power was not regarded as a precondition for the stability of the republican democracy.

In that same chapter, Roberto Villa argues that the institutional weakness of the Republic was partly the result of a misconception of democracy. The capacity to retain power through electoral majorities seemed to legitimize the electoral programmes of parties in government over transactions. Inter-party agreements were often regarded with negative connotations as if they would mean to hand over immutable political commitments. The very idea of democracy was weakened over time. The author's thesis is plainly compatible with the careful review of the constitutional debate.

Giacomo Demarchi's *Provincia y territorio en la Constituyente española de 1931. Las raíces europeas del Estado integral* deals with the influence of interwar constitutionalism on the constitutional debate, but it leaves out the conceptual disagreements about that legacy.[9] The book develops the idea of integral state as it

was adopted by constituent representatives from German legal discussions. It details the territorial organization of the integral state in Spain from a practical point of view, providing reasons for its feasibility to fulfil demands of regional autonomy.

In *Laicismo y catolicismo. El conflicto político-religioso en la Segunda República*, Julio de la Cueva and Feliciano Montero address the religious question in the Constituent Assembly looking at political and social events outside the constitutional debate.[10] From a conceptual perspective, this book clarifies the ideas of laicism, secularism, and religious freedom. These concepts were confused with each other and rhetorically used to benefit the interests either of clerical or anticlerical movements. As the authors argue, that source of conflict pervaded other political debates and became a warhorse issue.

Nigel Townson's *The Crisis of Democracy in Spain: Centrist Politics under the Second Republic* analyses the decline of centrist parties as one of the main reasons for the failure of the Spanish Second Republic.[11] His analysis gives priority to the capacity of the party system to answer immediate challenges through partial agreements between political parties. The lack of strong centrist parties, at least with regard to their number of seats, worsened the expectations of these parties over time.

One of the consequences was the deadlock, and sometimes breakdown, of settlements between left-wing and right-wing parties. That thesis is compatible with the lessening of the capacity of centrist parties to get public endorsement and favourable electoral results. As a token of this tendency, agreements between right-wing and left-wing parties decreased since September 1931, as reflected in this book. However, his arguments draw predominant attention to the ending years of the Republic.

Enrique San Miguel has clarified the legal and political baseline of the republican constitutional system in *Constitución de 1931. Derecho y cultura política*.[12] He approaches that period through the contributions of the main scholars and intellectuals that had responsibilities within the political regime. It reviews selected writings by Manuel Azaña, Niceto Alcalá-Zamora, Luis Jiménez de Asúa, Alejandro Lerroux, José María Gil Robles, Ángel Ossorio y Gallardo, Indalecio Prieto, Diego Martínez Barrio, Francisco Largo Caballero, Miguel Maura, Luis Araquistáin, Marcelino Domingo, Francisco Ayala, Manuel Carrasco i Formiguera, and Ángel Herrera Oria, among others.

Manuel Azaña. República antes que democracia, by Manuel Zafra, shows the conflict between Azaña's endorsement of democracy and his ideal of republicanism.[13] Azaña's tension between democracy and republicanism was resolved in favour of a very particular idea of republicanism: one that strengthened civil freedoms together with social and economic modernization. To Azaña, republicanism has priority over democracy. The latter would be a means to reach the former.

These publications have improved the available academic literature about the Spanish Second Republic. The institutional and intellectual basis of republican democracy has been gradually qualified since the 1940s. In the last ten

years, a growing number of scholars have contributed to explore these controversies. *Democracy and Sovereignty in Spain* draws attention to the arguments that prompted conceptual changes in the Constituent Assembly of 1931.

6 A Note on Sources and the Comparative Outlook of MPs

This book's approach pays particular attention to the rhetorical functions of the political arguments presented by the MPs. It sheds light on the constitutional debate of 1931 through the lens of the parties' and MPs' ideological perspectives. By doing so, the interrelation between the rhetorical skills of the MPs and the ideological meanings of the terms they used is shown. They are interpreted as two of the conditions that the study of parliamentary sources can identify. In this sense, the book does not explain the totality of meanings produced in 1931 Spain, but it surveys the uses of specific concepts in the Constituent Assembly of 1931 which are representative of the upgrading of the political vocabulary.

The first distinctive feature of the parliament of 1931 is that it gathered a combination of the most prominent Spanish intellectuals of that time, such as José Ortega y Gasset and Miguel de Unamuno, together with eminent legal and political scholars such as Antonio Royo Villanova and Luis Jiménez de Asúa. That is the reason why the MPs creatively used abstract concepts as rhetorical resources to defend their own stances, showing a high capacity for the *inventio* of arguments. The second one is the influence of the constitutional debate of 1931 on the democratic vocabulary of Spain, patent both during the Spanish Second Republic and the Spanish transition to democracy after the death of dictator Francisco Franco in December 1975.

The Constituent Assembly of 1931, whose sessions were widely echoed in the press, led to public discussion of the classical concepts of democracy far beyond academic circles. In this sense, the Constituent Assembly represented a unique moment in the political history of Spain. It was fertile from the point of view of the number of intellectual parliamentary contributions that were made in such a short time-span. Likewise, it contributed to expand the vocabulary of democracy among Spaniards of any social and economic condition.

As a consequence of the broad coverage of the constitution-making process in the press, this research also utilizes some of the most-read newspapers in 1931. These emphasized the concepts of the state and religious freedom, which were widely reported on in the press along with a variety of interpretations that could be considered together with those drawn from the parliamentary speeches in the Constituent Assembly. Other concepts, such as property rights or the workings of parliament, seemed barely relevant from a conceptual point of view in the accounts reproduced in the newspapers.

This study covers the political spectrum of parliament from right-wing Catholic traditionalism to left-wing radical socialism. From right to left, the newspapers selected can be classified as follows: *El Cruzado Español*, *ABC,* and

La Época (conservatism); *El Imparcial*, *Crisol*, *Ahora*, and *El Sol* (liberalism encompassing moderate right, centre, and moderate left-wing views); *El Heraldo de Madrid* and *La Voz* (left-wing republicanism). Together with these resources, secondary literature including biographies and specialized studies can straighten out the impact that the parliamentary deliberations had on the political process and also on their intellectual relevance.

In addition to other pragmatic reasons, but especially to ease the involvement of minority parties in the deliberations, the Provisional Rules of Procedure of the Constituent Assembly (*Reglamento Provisional de las Cortes Constituyentes*) were agreed to by the provisional government (in office from April to December 1931) and passed in July. Article six regulated the procedure for discussing the Constitutional Draft. The second section of article 22 established that during the debate on the text, speeches should not exceed six *pro et contra* turns, three in favour of a motion and three against it. Section 6 of that same article determined that interventions "will be performed by groups or factions in parliament as such, and to do so they will designate the MPs that will defend their political criteria". Each one of the articles debated should include one speech against and another in favour of the motion.[14] The procedure adopted was respected during the constitutional sessions of 1931, though in many speeches, it was hard to distinguish whether they were in favour or against the motions in question.

Two aspects, namely the broad and ideologically diverse coalition in government during the constituent period from April until to December 1931, when the centrist Radical Republican Party left government, together with the quirks of the process regulating parliamentary speeches, explain why minority groups assumed a prominent role during the constitutional sessions as the *de facto* opposition. That was the case of the Popular Agrarian Minority, the Basque-Navarre Minority and, occasionally, some independent or semi-independent MPs such as Ángel Ossorio y Gallardo,[15] and Alfonso García Valdecasas, of the Group at the Service of the Republic.

7 The Constituent Assembly of 1931: A Case of Interwar Constitutionalism

The Spanish parliament of 1931 was not an exception when compared to other interwar European and American parliaments of the 1930s. The constituent members were inspired by the constitutions, and the parliamentary debates, of Mexico (1917), Weimar (1919), Austria (1920), Czechoslovakia (1920), and Yugoslavia (1921), among others.[16] In addition, the Spanish Constitution of 1931 was nurtured by historical and contemporary political debates such as those held in France, the United Kingdom, or Italy, to varying degrees.

Parliamentary experiences in Europe enhanced the contested nature of concepts when they were argued over by opposing political representatives. That was in itself a source of innovation. MPs used the constitutional history of the

country to portray either an unfinished path towards social and political modernization or a homogeneous legacy of Catholicism and individual liberties. In the constituent debate of 1931, constitutional ideas and politics were further reinterpreted in accordance with new European and American trends in public law and constitutionalism.

Recent constitutional experiences such as those of Mexico (1917), Germany (1919), and Austria (1920) were discussed. Likewise, the process of debate during the constitutional sessions was conditioned by the social, economic, and political circumstances of the nascent republican democracy, which aimed to replace a seven-year dictatorship (1923–1930). These circumstances included the fragmentation of parties into small minorities in parliament, the fact that more than two-thirds of MPs had no previous experience as members of parliament, the economic crisis inherited from the crash of 1929, and the actions of trade unions and anarchist groups with their subversive, often violent connotations. The debate of 1931 reflects these cultural aspects through a reinvigorated and controversial political vocabulary largely influenced by interwar constitutionalism.[17]

The Weimar Constitution was a milestone for Spanish MPs. Its inspiration was felt in arguments broadening the interpretation of social rights in the Constitutional Draft with the aim of defending workers against abuses, easing access to job opportunities, designing a system of social welfare, making primary schooling universal, and guaranteeing that access to justice was freely provided to disadvantaged classes. However, the social aims of the coalition government (April 1931–December 1931) required public investments that were hardly possible to make due to the economic crisis provoked by the crash of 1929.

The ideas of Pierre Waldeck-Rousseau, Léon Gambetta, Georg Jellinek, Léon Duguit, Maurice Hauriou, Hugo Preuß, Rudolf Smend, and Hans Kelsen, among other politicians and constitutional lawyers, were discussed during the constituent sessions to argue about the new conflicting trends in public law and constitutionalism. In this context, a miscellaneous debate about the state and the place of parliamentary sovereignty gained grounds. The Spanish MPs assumed that the classical liberal state should be replaced. Social concerns and, more strikingly, the relationship between legal norms and society, sovereignty and parliament, constitution and popular sovereignty, society and administration resulted in a new impetus towards the state meddling in the legal and economic life of individuals.

8 The Constitutional Debate: From August to December 1931[18]

Regarding the institutional features of the newborn democratic regime, a semi-presidential system was almost unanimously agreed, with the exception of some members of the Radical Socialist Republican Party, to be the most feasible alternative for the Spanish Second Republic. Some members of the left-wing

coalition government formed during the constituent period (August–December 1931) associated the idea of popular sovereignty with the idea of parliamentary sovereignty and hence supported parliament's role in creating the new Constitution in order to build a modern, democratic institutional language. According to them, the old state designed by King Alfonso XIII and, later on with his approval, by Miguel Primo de Rivera's dictatorship, hindered the expansion of liberties and rights that other European countries such as Germany, Austria, and Czechoslovakia had already developed through constitutional means.

Most MPs of 1931 aimed both to retrieve the previous Spanish parliamentarian tradition started during the constitutional debate of Cádiz (1810–1812) and at the same time to emulate the contemporary constitutions influenced by new theories of the law, the state, and the expansion of rights and liberties in society. By invoking the Constitution of 1812, the constituent members were primarily reinterpreting the national history of Spain as a history of frustrated liberal ideas. When describing European constitutions, they emphasized non-violent revolution as the way to build the new republican regime. It was thought that this process would instil political thinking, as well as the society and the economy, with a renewed optimism after overcoming the constraints on political liberties imposed by the dictatorship.

In the political history of Spain, 1931 was the first year of the Spanish Second Republic (the First Republic lasted from 11 February 1873 to 29 December 1874). After the dictatorship of Miguel Primo de Rivera (1923–1930) and the *dictablanda* (soft dictatorship) of Dámaso Berenguer (1930–1931), the government of admiral Juan Bautista Aznar called for local elections on 12 April 1931. Republican groups competed in coalitions and reached a substantial majority of seats in the city governments. According to historian Javier Tusell, the monarchy fell as a consequence of the self-identification of its representatives with a regime that was perceived by a majority of urban citizens as obsolete and contrary to modernization (Tusell 2004: 240–241, 251–252).

Finally, the local elections of 12 April 1931 were understood by monarchic forces in the government as a plebiscite between monarchy and republic. King Alfonso XIII, the cabinet led by Aznar, and supporters of a republican regime took the results of these elections as a serious questioning of the regime. This loss of prestige for the monarchy happened in just a few years. Primo de Rivera's dictatorship was seen in the beginning as a provisional solution to attaining social and political stability after a series of military disasters and uprisings (the popular rejection of the Rif War, gun violence in some cities, and recurrent labour strikes). The authoritarian answer to these problems by Primo de Rivera, and his refusal to resume parliamentary activity, undermined his initial welcome by large groups of society in 1923. Since the decisions made by the dictator were endorsed – though sometimes reluctantly – by King Alfonso XIII, the authority of the king was also gradually discredited. The local elections of 1931 confirmed the fears of monarchic groups regarding this trend.

In the early morning of 13 and 14 April 1931, the cities of Vigo and Éibar proclaimed the Spanish Second Republic. Later, other cities including Valencia,

Barcelona, and Madrid did the same. The state minister and most prominent public figure of the Bourbon period, the Count of Romanones, advised Alfonso XIII to abdicate. Public pressure in favour of a republican regime forced the resignation of the government, and the King Alfonso XIII abdicated (Gil Pecharromán 1989: 28). Amidst this power vacuum, a cabinet made up of major pro-republican figures critical of Primo de Rivera's regime formed a provisional government. In that manner, the Spanish Second Republic began. To set up a legitimate democratic authority for that pro-republican government, a general election was called for 28 June 1931.

After the election, the government enacted a hurried slate of parliamentary procedures agreed upon only one month before the beginning of the constitutional session. It aimed to set up procedural guidelines for deliberating on the articles of the Constitutional Draft through a decree of more than 60 articles published in the state's official journal (*Gaceta de Madrid*, 12 July 1931: 339–344). These guidelines served to establish the minority groups in the Constituent Assembly as the *de facto* opposition to the provisional government. The parliamentary procedure regulated constitutional debates through broad margins of interpretation. Despite the fact that Parliament did not sanction this itself, the procedure aimed to offer minority parties the opportunity to participate in the constitutional debate on equal terms with the parties that held the most seats in the Constituent Assembly. The criteria for deciding on the acceptance of speeches were the order of the petition to the speaker (president), and not the seats that the parties held or the proportional number of MPs in parliament.

The party distribution of the 470 parliamentary seats is difficult to detail accurately. Some parties changed their names during the process, and a few MPs joined new parties immediately after the general election held in June and the partial elections between July and November. These facts illustrate the unstable party system of Spain in 1931 (Tusell 1982: 160). However, it is possible to itemize the distribution as follows, even though others are possible: 112 for the Spanish Socialist Workers' Party, 65 for the Radical Republican Party, 63 for the Radical Socialist Republican Party, 33 for the Republican Left of Catalonia, 26 for the Republican Action Party, 24 for the Progressive Republican Party, 24 for the Popular Agrarian Minority, 16 for the Autonomous Galician Republican Organization, 16 for the Federal Republican Party, 15 for the Basque-Navarre Minority, 13 for the Group at the Service of the Republic, and 79 for independent MPs and other groups (Tusell 1982: 161–196).[19] Tusell distinguishes the Basque Nationalist Party from the Traditionalist Communion party. Both parties were independent from each other, even though they worked as a single group during parliamentary deliberations. The number of seats obtained by the Radical Republican Party only takes into account those elected candidates who did not present candidacies as independents.

In May 1931, before the beginning of the Constitutional Assembly and when the general election had not yet been held, a Legal Advisory Commission was appointed to prepare the Preliminary Constitutional Draft (MPs Ángel Ossorio

y Gallardo and Alfonso García Valdecasas had the main role in preparing the draft). In the end, the Preliminary Constitutional Draft was turned down by a parliamentary vote in July. It was regarded as being too conservative, deemed as insufficient to carry out ambitious social and economic reforms by left-wing MPs.

Almost immediately, a new Constitutional Commission of 21 members was established, led by the legal scholar Luis Jiménez de Asúa of the Spanish Socialist Workers' Party. The new draft that revised the former complied with the expectations of the left-wing parties. Accordingly, it was accepted for parliamentary discussion (Juliá 2009: 42–43). Even though MPs conducted parallel negotiations, the constitutional debate of 1931 took place in parliament.

Two alternative methods of lawmaking were put forth in light of divergent interpretations of Spanish and European history. The first one, supported by opposition MPs, was moderate and should work to refine the parliamentary experiences of nineteenth-century Spain without renouncing its historical contribution to the development of parliamentarism, a certain degree of social stability, and social peace. The second one, endorsed by left-wing parties in the provisional government, interpreted the nascent republican democracy as a chance, a perfect setting from a historical perspective, for a complete renewal of both the political and the civil institutions of the nation. That second alternative was meant to break with the conservative constitutionalist of the past and to leave aside the traditionalist model that was inherently connected with Catholic values.

9 Methodological Approach

In this study, the methodological perspective adopted is halfway political theory or philosophy and conceptual political history. It challenges the belief that political theory is merely a subdiscipline of political science (Freeden 2004: 3). In addition, it assumes that "every new constituent moment became a chance to revamp the system of institutions with the aim of addressing unsettled problems" (Rosales 2016a: 278). Constituent moments can serve as institutional frameworks to check how democratic regimes are conceived anew. They make it possible to check how political theories are used by MPs, sometimes unintentionally, in the process of constitution-making. Unlike speculative theorizing, constitutional debates in parliamentary settings reveal themselves as a proof of how intellectual contributions are used in the context of political life.

Political theory or philosophy is thought to provide the argumentative key to analysing political controversies: in this case, a constitutional debate. In that wise, it comes closer to political science by taking into account the deliberations of the political representatives in parliament. The issues of debate focused on here are classical topics of political theory and philosophy: the contrast between the ideas of reform and revolution, the definition of religious freedom, the role of property rights, and the design of a semi-presidential regime. By addressing these issues from competing political stances, the meanings ascribed to the

state in a newborn democratic regime are clarified. This study examines historical questions of political philosophy through the perspective provided by the founding moment of the first twentieth-century democracy in Spain.

The issues that were under discussion in the parliamentary sessions considered in this research were: the structure of the state; the role of the executive branch, the legislative power, and the judiciary; the constitutional acknowledgement of individual freedoms; the regulation of social rights; the separation of religious institutions from the state; the place of property rights in society; and the role of the president in a democratic republic. All of them are topics of political theory and philosophy.

In 1931, Spanish constituent members left aside part of their nineteenth-century parliamentary tradition to highlight the landmarks of federalism and the Spanish First Republic. The constituent MPs either rooted themselves, and their arguments in particular, in ideas inspired by this tradition, or they took them instead as targets of criticism. For example, the rhetorical appeal to the Cádiz Constitution of 1812 to improve federalism's ability to overcome political centralization; or the mention of figures from the past, such as those who led the Spanish First Republic – Francisco Pi i Margall, Estanislao Figueras, Nicolás Salmerón, and Emilio Castelar – to use them as points of inspiration.

10 Structure of the Argument

The following are the five main topics addressed during the constituent sessions in parliament, as categorized in this study: two alternatives of the state, as proposed by the government and the opposition; the reforms implemented to build a social state; the religious issue (including secularization and religious freedom); property rights, together with expropriation; and the functions of the president of the republic. The links between the so-called religious question, property rights, and the presidency of the republic are to be found in at least three circumstances: the clash between the first coalition government and some liberal conservative MPs from the beginning of September 1931; the decision of left-wing parties to keep, or simply to improve on, the Constitutional Draft, thus depriving right-wing political parties of any opportunity to change part of the original wording when the religious question was discussed in the September sessions; and the argumentative disputes in which comparative European experiences were taken into account.

This research analyses five main topics addressed during the constituent sessions: two alternatives of the state as proposed by the government and the opposition; the institutional reforms towards a social state; the religious issue (including secularization and religious freedom); private property, together with expropriation; and the functions of the president of the republic. To disregard any of them unavoidably leads to inaccurate understandings of those agreements reached by the MPs, and makes unlikely a fair comprehension of the novelties of the Constitution of 1931. Other questions do not have the same

conceptual relevance as these, which are more complex and were more deeply elaborated from an argumentative point of view.

The selected sessions of the debate are the backbone of the ideological development of political parties during the republican period. They help to explain the rival alliances in parliament that formed between 1931 and 1936, shedding light on the partisan division of parliament since its inauguration in 1931, the lack of agreement on specific constitutional articles, and the future orientation of the party system after the passing of the Constitution.

The chronological order highlights how the concepts selected were part of intense deliberations connected with specific issues in the Constitution. Each of these topics is analysed without breaking with the chronology of events. By doing so, the formation of party alliances, MPs' preferences, and their strong disagreements can be seen insofar as they evolved within the sessions of the Constituent Assembly.

Chapter 1, 'Debating the Meanings of a Democratic State (August to October 1931)', is focused on the ideas of state, reform, revolution, constitution, and parliament that appeared during the constitutional debate. It addresses the meanings of each of these terms on the basis of MPs' speeches in parliament. The partisan orientation of these meanings is sometimes clear, whereas in other cases, the conceptual complexity of the arguments presented was in response to conflicting understandings of European constitutionalism. In their speeches, the Spanish MPs reinterpreted the political experience and vocabularies of other countries. Two ideas of the state can be distinguished in line with contemporary nuances in the understanding of the terms constitution and sovereignty, as well as with the ideological plurality in parliament.

Chapter 2, 'Reforms towards a Social State (September to October 1931)', enquires into the influence of the Weimar Constitution (1919) on the development of the social state reflected in the Spanish Constitution of 1931. Following from this, analyses of the parties of centre-right, centre, and centre-left leanings clarify the differences and similarities between alternative models of legal and socioeconomic reform. Centrist MPs agreed on the transformation of the classical liberal state of the nineteenth century into a social state, whether they envisaged it taking placed in the long run or immediately.

Chapter 3, 'Legal and Political Controversies around the Conceptualization of the Freedom of Conscience (September to November 1931)', focuses on the idea of freedom of conscience as held by the MPs, and explains the opposed understandings given to religious freedom. For representatives from left-wing parties, it entailed a new state that was religiously neutral, where the Catholic faith was understood as a private concern: the laws of the state should avoid any public funding for the Catholic Church and consider that all religious associations should be submitted to special laws by either the government or the constitution. In contrast, right-wing representatives were, to varying degrees, concerned with the constitutional protection given to Catholicism and rejected any anticlerical mobilizations. They emphasized that the large majority of the

Spanish people shared that creed, and discretionary or even arbitrary measures by the state against religious orders were unacceptable and incompatible with religious freedom.

In Chapter 4, 'Property Rights and the Limits to State Action (October 1931)', the status of property rights in the Constitutional Draft and the Constitution of 1931 is addressed. It traces the arguments of the government and the opposition in this regard. A majority of left-wing MPs chose authorizing expropriation measures by the state in cases of social usefulness and providing economic compensation. Right-wing members, especially those of the Popular Agrarian Minority, rejected those measures. They supported the interests of large and medium owners, arguing that the Constitutional Draft allowed for discretionary measures to accomplish state seizure without fair compensation to the owners.

The debate on the faculties of the president of the republic is addressed in the fifth chapter, 'Parliament and the President of the Republic (October to November 1931)'. As a consequence of the constitutional experiences in other countries across Europe, Spanish representatives disagreed about the procedure to elect the president of the republic, as well as how many times he would have the prerogative to dissolve parliament. Both left-wing and right-wing representatives endorsed incompatible choices that they thought would better guarantee the continuity of parliament. They attempted to overcome authoritarian drifts and any lack of legal resources for the president that would qualify him to act as a mediator between parties to counterbalance the legislative. This issue reveals how the functions of the president of the republic were not clear at all before the constitutional debate began. That aspect was a vital element of interwar democracies meant to protect parliamentary systems after the end of the monarchies.

The book chapters present a thorough view of the five political questions embedded in the Spanish constitutional debate of 1931. The political concepts that MPs used in their arguments made sense of the ideas of constitutional state, social reform, religious freedom, property rights, and presidential power. MPs made resource to political philosophy ideas. The blend of ideologies and scholarly traditions enriched the concepts debated with new connotations.

Notes

1 'Parliamentarism in Spanish Politics in the Nineteenth and Twentieth Centuries: From Constitutional Liberalism to Democratic Parliamentarism' (Rosales 2016a) and 'From Partisan to Pluralist Ideology: The Changing Practices of Democracy Through Spain's 20th-Century Constitutional Moments' (Rosales 2016b) are two articles methodologically crucial to this research.

2 Some representative writings of this line of research are: 'The Lost Language of Democracy: Antirhetorical Traits in Research of Democratisation and the Interwar Crisis of Democracy' (Kurunmäki 2012) and *In Search of European Liberalisms: Concepts, Languages, Ideologies* (2019), edited by Michael Freeden, Javier Fernández-Sebastián and Jörn Leonhard.

3 In a nutshell, the Spanish Socialist Workers' Party (*Partido Socialista Obrero Español*) and the Republican Action Party (*Acción Republicana*) represented democratic socialism; the Radical Republican Party (*Partido Republicano Radical*), the Progressive Republican Party (*Partido Republicano Progresista*), the Liberal Democratic Republican Party (*Partido Republicano Liberal Demócrata*) and some agrarian MPs embodied classical liberalism; the Basque-Navarre Minority (*Minoría Vasco-Navarra*) and the Popular Agrarian Minority (*Minoría Popular Agraria*) conceived of traditionalism in Spain as the best answer to the far-reaching reformist plans of the state. Nonetheless, a few agrarian MPs took a stance in favour either of emulating or of enhancing the liberal Constitution of 1876.

4 García Santos, Juan F. (1980). *Léxico y política de la Segunda República*. Salamanca: Universidad de Salamanca.

5 Fernández Sebastián, Javier & Juan Francisco Fuentes eds. (2008). *Diccionario político y social del siglo XX español*. Madrid: Alianza.

6 Ayala, Francisco, Eduardo Luis Lloréns & Nicolás Pérez Serrano (2011). *El derecho político de la Segunda República*, ed. Sebastián Martín Martín. Madrid: Dykinson.

7 Guillén Kalle, Gabriel (2018). *Carl Schmitt en la Segunda República Española*. Madrid: Reus.

8 Álvarez Tardío, Manuel & Fernando del Rey Reguillo, eds. (2012). *The Spanish Second Republic Revisited: From Democratic Hopes to Civil War (1931–1936)*, trans. Nick Rider. Brighton, Portland & Toronto: Sussex Academic Press.

9 Demarchi, Giacomo (2016). *Provincia y territorio en la Constituyente española de 1931. Las raíces europeas del Estado integral*. Madrid: Universidad Carlos III de Madrid.

10 Cueva, Julio de la & Feliciano Montero (2009). *Laicismo y catolicismo. El conflicto político-religioso en la Segunda República*. Madrid: Universidad de Alcalá de Henares.

11 Townson, Nigel (2000). *The Crisis of Democracy in Spain: Centrist Politics under the Second Republic*. Brighton, Portland & Toronto: Sussex Academic Press.

12 San Miguel, Enrique (2021). *Constitución de 1931. Derecho y cultura política*. Valencia: Tirant lo Blanch.

13 Zafra, Manuel (2021). *Manuel Azaña. República antes que democracia*. Madrid: Centro de Estudios Políticos y Constitucionales.

14 *Reglamento Provisional de las Cortes Constituyentes* [Provisional Rules of Procedure of the Constituent Assembly], *Gaceta de Madrid*, 12 July 1931, 341.

15 Ángel Ossorio y Gallardo presented himself as an independent MP in the so-called Candidacy to Support the Republic. He stood out as one of the most active representatives during the constitutional debate, contributing a large number of speeches. Likewise, Ossorio presided over the Legal Advisory Commission that prepared the Constitutional Draft, which was rejected.

16 A remarkable book in English about the intellectual contributions that shaped the Weimar Constitution and its aftermath is *Weimar: A Jurisprudence of Crisis* (2000), edited by Arthur J. Jacobson and Bernhard Schlink. *The Constitution of the Republic of Austria: A Contextual Analysis* (Stelzer 2011) addresses the history of the Constitution of Austria since 1920. *Czech Law in Historical Contexts* (Kuklík 2015) examines the historical processes connected to Czech national identity and the legal changes in Czechoslovakia until it was dissolved in 1992.

17 It is necessary to mention some of the most relevant works with which a number of Spanish MPs were acquainted: *El régimen parlamentario en la práctica* (de Azcárate [1885] 1931); *La guerra y el derecho* (Lloréns 1916); *Estudios sobre el régimen parlamentario en España* (Posada 1891); *Tratado de derecho político* (Posada 1894); *Derecho*

político comparado (Posada 1906); *La idea del Estado y la guerra europea* (Posada 1915); *La crisis del constitucionalismo. Discursos pronunciados en la Real Academia de Ciencias Morales y Políticas* (Posada 1925); *Constituciones de Europa y América,* vol. I. (Posada and Pérez Serrano 1927a); *Constituciones de Europa y América,* vol. II. (Posada and Pérez Serrano 1927b); and *Direcciones contemporáneas del pensamiento jurídico. (La filosofía del Derecho del siglo XX)* (Recaséns Siches 1929).

18 All the translations from the Proceedings of the Constituent Assembly of the Spanish Second Republic are mine.

19 This distribution only makes sense when excluding independent elected candidates from political parties. Albeit the analysis of the electoral results of June 1931 takes into account that many of the MPs rarely had stable party leanings, another picture can be found in the analysis of Julio Gil Pecharromán. His analysis gives 115 seats to the Spanish Socialist Workers' Party, 94 to the Radical Republican Party, 59 to the Radical Socialist Republican Party, and 31 to the Republican Left of Catalonia (Gil Pecharromán 2002: 70).

Conclusions

As the book chapters have highlighted through the reconstruction of the constitutional debate from 27 August to 9 December that led to the Spanish Constitution of 1931, this study has taken the debates of the Spanish Constituent Assembly (*Cortes Constituyentes*) both as a basic source regarding lawmaking in the building of a democratic regime and as a case of the innovative use of classical political concepts and ideas. By doing so, it has developed an interdisciplinary approach combining conceptual history, parliamentary constitutional history, and political theory that critically examines topics such as the structure of the state, the role of state powers, the meaning given to individual freedoms, the broadening of social rights, the separation of church and state, the understandings of property rights, and the presidential office. The parliamentary discussions of these issues gave new meanings to the concepts of state, reform, revolution, freedom of conscience, property rights, and sovereignty. They show that democratization and parliamentarization came together in Spain, as was also the case of other modern democracies.

In *Democracy and Sovereignty in Spain*, I have illustrated the ways in which the Spanish constitutional debate contributed to the conceptual innovation of the political language and how this influenced the design of institutions for the new political regime. The advent of a republican democracy was carried out in a way that levelled its founding text with those of other recent democracies. The Constitutions of Mexico (1917), Weimar (1919), Austria (1920), Czechoslovakia (1920), and Yugoslavia (1921) inspired Spanish representatives to write the Constitution of 1931. The legality of a republican democracy was agreed as the best answer against authoritarian rule to face modern political, social, and economic challenges.

Republican democracy expressed an ideal of popular sovereignty through the election of political representatives. Parliament and constitution were the mainstay of state institutions. Without parliamentary control of government and full respect of constitutional rights, arbitrariness of private and public authorities could not be prevented. That belief gave ground to intellectual controversies in the Constituent Assembly of 1931 about the most efficient choices to foster and to strengthen democratic political institutions.

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The study has sought to answer this research question: To what extent does the Spanish constitutional debate of 1931 demonstrate conceptual innovation in the parliamentary context? The answer is that the Constituent Assembly of 1931 was a site where conceptual innovations were produced through the MPs' argumentative speeches. Furthermore, the analysis of this process contributes to the understanding of the rapid transformation of the parliamentary political vocabulary of Spain in that year.

The book chapters have explored the extent of ideological dissent in the Constituent Assembly of the Second Republic. There, the clash of arguments and ideologies transformed the political vocabularies used to describe both Miguel Primo de Rivera's dictatorship and nineteenth-century Spanish liberalism. Representatives with republican and liberal affinities portrayed that new democratic regime as an instrument to modernize the country and its economic, social, and political institutions. Their optimism about republican democracy and their condemnation of the Bourbon Restoration (1874–1931) led them to breaking with what they considered to be centuries-old backwardness.

Likewise, the study has underlined the reconceptualization of central political concepts during the interwar period in Spain. The research has analysed the rhetorical capacity of the parliamentarians that deliberated in the Constituent Assembly. There, the arguments, rhetoric, and ideological confrontations were not merely the mirror of a major political event: the birth of a nascent republican democracy. They represented an opportunity to revamp the political vocabulary of that time, providing new meanings to traditional political concepts such as state, reform, revolution, sovereignty, freedom of conscience, and private property.

The concepts of state, reform, and revolution were the object of ideological concerns, which were often used argumentatively by representatives to express opposite ideas. That was not the case for other ideas such as parliament and democracy. Parliament and democracy were almost unanimously considered to be positive concepts, with very slight differences in representation among the MPs. A number of political terms such as state, sovereignty, revolution, and freedom of conscience were rhetorically reconceptualized, whereas others such as parliament and federalism were scarcely varied in their meanings and were not sources of deep contestation from a conceptual perspective.

One of the analytical goals of this research has been to clarify the ideological complexity of the Constituent Assembly that drafted Spain's Constitution of 1931 between August and December of that year. The concepts, deliberations, and strategies employed there cannot be understood without examining the interests, alliances, and alternatives of the parties and representatives in the context of drafting the constitution. The constitutional debate of 1931 shows how key concepts were reinterpreted in light of political events, and how those reconceptualizations made sense to parliamentarians from an international, comparative perspective in which semantic transfers, even if difficult to identify with precision in many cases, can be observed. This conceptual innovation

entailed a high degree of rhetorical capacity on the part of the MPs, allowing them to play argumentatively with all kinds of elements: from the history of political thought to constitutional techniques and solutions.

From a methodological standpoint, this book has relied on the approaches of conceptual history and political theory. From conceptual history, it has assumed that concepts, and in particular key political concepts such as state, sovereignty, democracy, and freedom, are permanently contested in political argumentations. They are the basic elements of the arguments presented in parliamentary debates. This study has examined how an array of the central institutions of modern democracies were reconceptualized in those debates, such as the structure of the state, the role of state powers, the meaning given to individual freedoms, the frame of social rights, the separation of church and state, the understandings of property rights, and the office of the president. Hence, this methodological combination of conceptual history and political theory has been tested in a case study of parliamentary constitutional history that provides the proper focus of the research.

The introduction has provided the setting of the analysis, showing how the constitutional debate in Spain in 1931 introduced a democratic vocabulary in the aftermath of the dissolution of general Miguel Primo de Rivera's dictatorship. There, I have aimed at pinpointing the trends of European constitutionalism and the national features of the constitutional debate of 1931. I have highlighted how Spanish MPs recast the vocabulary of recent democratic experiences. Political parties and parliamentarians presented their own ideas of state, reform, revolution, sovereignty, freedom of conscience, and property rights as they debated rival understandings of democratic institutions. Since the constitutional debate was covered by the press, the arguments presented by the MPs were echoed in public debates, especially regarding the new meanings that were given to the concepts of state, reform, revolution, and the other basic elements of the political vocabulary in the constituent moment.

The introduction has also discussed how it was possible to understand the potentialities of political theory (ideas, theories, arguments, controversies) in the parliamentary debates of constituent moments, a topic which has barely been researched in the case of the Spanish Constitution of 1931. Combining analytical and interpretative resources of political theory, conceptual history, and parliamentary history to investigate the constitutional debate of 1931 in Spain allows us to understand the intellectual complexity of the period through select political theory controversies and concepts. Taking into account the methodological proposal developed by Kari Palonen and José María Rosales, a variety of concepts used by the MPs have been examined from the point of view of the conceptual controversies that arose when deliberating about items in the constitutional agenda.

This research has engaged with these works by adding the perspective that ideological contestation is to be understood as a major resource of conceptual innovation in parliamentary constitutional arenas, rather than as a hindrance. That is the case precisely because constitutional debates help to articulate

political ideologies through the argumentations of the MPs as they envisage democratic institutions. As a consequence, parliamentary constitutional debates can be analysed as a subject matter of political philosophy or theory.

The constitutional debate of 1931 provides the institutional setting and the intellectual context to analyse how classical topics of political philosophy are discussed in a real parliament. In that sense, the Spanish case study of 1931 is a source for exploring the conceptual innovation that brings together rival ideological perspectives in the course of parliamentary deliberations. This study is innovative insofar as it has utilized the Spanish constitutional debate of 1931 to throw light on how political discussions in constituent moments can help us to understand a nascent democratic regime, its structure, and its institutions. When MPs deliberate on the constitutional principles of a new state, their argumentative diversity enables the comparative development of key concepts.

The first chapter, 'Debating the Meanings of a Democratic State (August to October 1931)', has depicted, first, those political parties with seats in the Constituent Assembly. Second, it has drawn attention to the alternative views of the MPs on the concepts of state, reform, and revolution. Third, it has elucidated how two concepts of the state with clear ideological connotations competed with each other; these concepts were roughly equivalent to the insights of the left-wing and right-wing parties, respectively. Finally, it has surveyed the relationship between the ideas of state, constitution, and parliament as presented by moderate left-wing and moderate right-wing political parties.

Chapter 1 has underscored in that regard the conceptual innovation of the constitutional debate of 1931 regarding the concept of state. The MPs challenged two opposite models for the distribution of state powers, taking into account, on the one hand, the conflict between the interests of the nation and those of the regions and, on the other hand, the desired limits to state actions affecting the regulation of the freedoms of citizens. In the 1930s, unlike in current professional politics, the limited access to the political sphere of certain elite intellectuals and legal scholars favoured the high level of argumentative performance of the representatives, who combined legal expertise with a knowledge of political theory, the history of political thought, and constitutional theory.

The speeches of the Spanish MPs in the Constituent Assembly reflected a wide-ranging knowledge of international experiences of constitution-making which in turn eased the creative rhetorical use of political concepts. Without this background, analysing the semantic changes that had taken place in concepts such as state, reform, revolution, freedom of conscience, private property, and sovereignty would hardly have been possible. The perspective adopted here is useful in distinguishing actual conceptual innovations from empty rhetorical posturing, by closely attending to the topics connected to those concepts. For instance, the ideas of state, reform, and revolution were inseparable from each other. In the Spain of 1931, saying that the nascent republic was the result of a revolution did not mean that the idea of reform was to be discarded. Instead, it meant that reforms should be deeper and should reflect a break with the authoritarian regimes and frustrated attempts at political modernization of the past.

Chapter 2, 'Reforms towards a Social State (September to October 1931)', has focused on the conceptions of social rights and public policies proposed by classical liberal parties such as the Progressive Republican Party and the Liberal Democratic Republican Party, on the one hand, and the more ambitious policies, from an economic point of view, defended by the Spanish Socialist Workers' Party and the Republican Action Party, on the other hand. In that sense, this chapter has provided information about the party system of Spain in 1931 and has spotlighted the plurality of ideological families and leanings by examining the stances embraced in parliament by each one of them. Besides, there is a research gap about the ideological diversity of the minor parties in 1931, to which this chapter hopefully contributes. Likewise, Chapter 2 has addressed some of the main features of the Weimar Constitution as discussed in the Spanish constituent sessions and also has presented the reformist alternatives debated by the Constituent Assembly of 1931. Hereof, the chapter has distinguished the influence of the Weimar Constitution on Spanish constitutionalism and has left room for a detailed analysis of how social rights were conceptualized by Spanish MPs. It has checked that, surprisingly, the expression 'social rights' as such was rarely used in the constitutional debate of 1931, even though representatives noted the tension between individual rights and social reforms intended to benefit disadvantaged social groups.

The third chapter, 'Legal and Political Controversies around the Conceptualization of Freedom of Conscience (September to November 1931)', has addressed how the religious question produced a high degree of polarization between parties by dwelling on two alternative understandings of the very idea of freedom of conscience. It has contributed to clarifying how the ideas of freedom of conscience, secularism, and laicism were understood in the constitutional debate of 1931. It has also examined some features of the debate during the French Third Republic, as enshrined in the *Loi concernant la séparation des Églises et de l'État* of 1905.

Chapter 3 has suggested, first, that the concept of sovereignty was used by right-wing political parties to emphasize the autonomy of religious and civil institutions from the state; second, that the leader of the Republican Action Party, together with the Radical Socialist Republican Party, described the ideas of laicism and radicalism with positive connotations and avoided talking about secularization as such (a term preferred by moderate right-wing parties); and third, that left-wing Spanish representatives partially adopted the language of French radicalism to expand the meaning of the ideas of secularization and freedom of conscience so that they were equivalent to the educational reform of primary education and the religious orders. This chapter has taken into account these conflicting understandings of freedom of conscience by individual parties and MPs as one decisive factor in the polarization that resulted from the debate on the religious question.

The fourth chapter, 'Property Rights and the Limits to State Action (September to October 1931)', has enquired how the idea of property rights, in a similar vein to the concept of freedom of conscience and was connected to a

variety of ideas from ideologies that regarded individual and collective property as incompatible ends. Chapter 4 has outlined three positions as regards property rights, corresponding respectively, first, to a view in which property rights were inviolable natural rights that did not admit state intervention (Popular Agrarian Minority and Basque-Navarre Minority); second, to an economic and political liberal stance in favour of gradual and balanced state intervention in the regulation of property rights through ordinary laws (Radical Republican Party, Progressive Republican Party, and Liberal Democratic Republican Party); and third, to a socialist tendency towards the gradual socialization of private properties (Spanish Socialist Workers' Party, Republican Action Party, Radical Socialist Republican Party, Republican Left of Catalonia, and Autonomous Galician Republican Organization). A number of scholarly works have explored the agrarian reforms in the Spanish Second Republic; however, there has been relatively little attention paid to the constitutional regulation of property rights in the Constitution of 1931.

In this vein, the Constituent Assembly reflected a pervasive political debate about the limits to property rights that took into account both national and international scholarly discussions. The debate around property rights in Spain contributes to clarifying which guarantees were thought to be indispensable to protecting those rights beyond ordinary laws. It gave rise to a conception of property rights, embedded in arguments of political theory, as purely positive rights, against the traditional idea that classified them as natural rights.

The fifth chapter, 'Parliament and the President of the Republic (October to November 1931)', has highlighted how the discussion about the office of president reduced the degree of ideological polarization in the Constituent Assembly, making it possible for the president of the republic, Niceto Alcalá-Zamora, to be elected by a vote of the majority of MPs. The discussion about the office of president highlighted the contrast between the moderating function of the presidency and its secondary role as the republic's highest representative, albeit subordinated to parliament in all its competences.

Chapter 5 has examined a relatively unexplored path. It has surveyed the case study of the Spanish constitutional debate of 1931 and has looked into the elements inherited from other constitutional debates. The French Third Republic (1870–1940) was an experience of political and social change with which Spanish parliamentarians were acquainted. They took it into account when deciding about the pace of secularization that the Constitution of 1931 would enshrine. In that sense, the French model was contrasted with the Weimar Constitution of 1919 to forecast whether granting a moderating function to the president of the republic would be advantageous or not for the stability of the nascent republican regime. The MPs disagreed, often based on the independence of their ideological affinities, on the best balance between the executive power, the legislative power, and the president of the republic. Representatives agreed that there was no perfect solution to that problem, and that any choice could be detrimental to the republican democracy depending on hardly foreseeable circumstances in the future. In an exercise of argumentative clarity, they

admitted that none of the regulations of the presidential office in the Weimar Republic or the French Republic protected a democratic regime from tyrannical tendencies that could undermine democracy and its institutions.

However, Chapter 5 has emphasized that the debate about the constitutional functions of the president of the republic should be regarded as a historical deliberation about semi-parliamentarism. It was an intellectual debate about the conditions that would enable and empower a parliamentary democracy, in which MPs carefully weighed the French, British, German, Austrian, and US models against each other at the beginning of the crisis of parliamentarism in interwar Europe, as was explicitly admitted by Spanish representatives.

In this context, the following five topics, as explained in each one of the chapters, together form the argumentative thread of this research: the structure of the republican state, the idea of and strategies for social reform, the new approach to the religious question, the reinterpretation of property rights, and the role of the president of a democratic republic. Based on a comprehensive survey of the debate, the research has also identified five topics that encompassed the basic argumentative focuses upon which it is possible to reconstruct the discussion about the institutional structure of the new democratic regime: the idea of social rights, how secularism and state laicism were opposed as rival ideals, the differences between individual and collective property rights, and the moderating function of the president of the republic.

These topics illustrate the main concerns of the MPs as they deliberated over the contents and aims of the Constitution. Together, their debates provided the institutional frame of the intellectual and ideological innovations produced. Each issue has highlighted an argumentative axis of this book. First, the opposition of the two concepts of the state describes the institutional alternatives of democratic socialism and classical liberalism in the debate over the desired degree of state intervention in economy and society. Second, the debate over the idea of social reform reveals that the MPs envisaged their programmes of social and economic reforms as taking place either gradually or immediately, but regardless would have required a huge public budget to make them effective. Third, the religious question contrasted an ideological model of rapid secularization of state institutions promoted by left-wing parties with a conceptual framework focused on maintaining the economic and social privileges of the Catholic Church, as defended by the Popular Agrarian Minority and the Basque-Navarre Minority. Fourth, the dispute over property rights offers a panoramic view of how the ideas of private and collective property were understood with respect to the question of land property and agricultural reform. There were, roughly, two alternatives to providing incentives to productivity and hiring: a redistribution of land through an agrarian reform, to make possible the acquisition of land by peasants, and tax relief together with better conditions for obtaining private funding for owners, to enhance the modernization of farming. Fifth, the shape of the office of president reflects the arguments of MPs over the effects of assuming either a moderating function or a subordinated role for the president of the republic, which became the central dispute about the balance between the office of the presidency and parliament.

The findings of this research point out a possible path to a deeper transnational study comparing the constitutional debates of that time. However, analysing the diary of sessions of the Spanish constitutional debate of 1977–1978, when the current Spanish Constitution was drafted and passed, casts light on the historical relevance of the Constituent Assembly of 1931. With a similar approach, but with a different object to the present study, it would be possible to build a more detailed analysis of the political theory and conceptual history of Spain's twentieth-century constituent moments.

The ways in which the constituent MPs established democratic institutions, promoted social rights, sought to secularize the state, and reformed property rights also resulted in the renovation of the political vocabulary of the time. The parliamentary deliberations of the Spanish Constituent Assembly of 1931 reflect numerous intellectual and technical influences from interwar European constitutionalism. In a nutshell, this book has aimed to contribute to highlight the heuristic value of examining the conceptual innovation of a parliamentary assembly within the constituent moment of debating the foundations of a new political regime.

5 Parliament and the President of the Republic (October to November 1931)

Taking into account the ideological diversity of the Spanish parliament in 1931, there is a thread of confrontation between left-wing and right-wing parties that, however, decreased when the discussion about presidential power took place. The debate about the functions that should be attributed to the president of the republic was perhaps the most technical and best informed among those confronted by the Constituent Assembly.

This chapter digs into three questions that indirectly explain the argumentative sense of speeches when the issue of the presidential office was discussed, as compared to other issues such as religious freedom and property rights. First, it examines the relationship between presidency of the republic, parliament, government, and Constitutional Court (*Tribunal de Garantías Constitucionales*). Second, it outlines the reception of the semi-presidential system by political parties with representation in the Constituent Assembly. Third, it explains how the president of the republican democracy, Niceto Alcalá-Zamora, of the Progressive Republican Party, and the liberal MP of the Popular Agrarian Minority, Antonio Royo Villanova, advanced a concept of sovereignty that fitted with the model of a semi-presidential democracy enshrined in the Constitution.

This chapter argues that most representatives were apprised of the problems inherent to the alternatives available to them: presidentialism, parliamentarism, and semi-parliamentarism. They agreed that the ideals of stability and the balance of state powers were impossible to achieve by adopting any of those systems. Predicting the practical problems associated with adopting the constitutional system of either Germany, Austria, or France was thought to be the most sensible way to proceed. It was a choice to select which one would be the least detrimental model in the Spanish context of a weak party system and parliamentarians' plural ideological backgrounds.

5.1 The Presidential Office in 1931

During the constitutional sessions of 29 October, 30 October, 3 November, and 4 November, the debate about the constitutional prerogatives of the president of the republic (articles 67–85) took place without heated speeches. Unlike the

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deliberations on the religious question, the ideological clash between left-wing parties and right-wing parties sheds only a partial light on the arguments presented by MPs between late October and early November 1931. Representatives focused on envisaging the problems that could derive from either a strengthened parliament with full powers or a president of the republic legitimized to appoint ministers and to dissolve parliament, among other competences.

The procedure for electing the president of the republic and his constitutional checks was thoroughly discussed. The presidency, government, and parliament were to be balanced, bearing in mind the Spanish tradition of the nineteenth and early twentieth century. That constitutional tradition was often considered by left-wing MPs an example of the unrestricted executive power of kings, dictators, and political leaders. The semi-presidential model of the Weimar Republic and the presidential model of the United States were the main historical examples available to theorize about the regulation of the president of the republic in Spain. Only the Weimar Republic exemplified the functional semi-presidential democracy that republican representatives aimed to imitate.

Neither the Spanish parliamentary tradition of the nineteenth century nor the experience of political instability in France provided a model for a parliamentary system suitable to the Constitution of 1931. It was so at least regarding the regulation of the competences assigned to the president of the republic. Left-wing representatives such as Mariano Ruiz-Funes of the Republican Action Party, Juan Botella of the Radical Socialist Republican Party, Bernardino Valle of the Federal Republican Party, the centrist Vicente Iranzo of the Group at the Service of the Republic, José Lladó, an independent liberal; and Jaime Carner, an independent Catalanist, denied the attribution of any constitutional power to the president of the republic, if he could use to his own benefit against parliamentary majorities.

Antonio Royo Villanova, of the Popular Agrarian Minority, argued in favour of a parliamentary democracy as the best alternative to enable the deliberations of MPs representing the general interest and, by the same token, to safeguard democratic institutions from any personal ambition to monopolize political power. In contrast, Niceto Alcalá-Zamora (who was president of the republic since 11 December 1931)[1] and Juan Castrillo, of the Progressive Republican Party, stood for expanding the competences of the president of the republic, which would counteract the tendency of parliament to hurry decisions. Both MPs thought that the president of the republic was essential to replacing the role of the Senate in a unicameral system, as the Spanish Second Republic was, thus providing institutional stability to the nascent democracy.

Distrust of the executive power was common in interwar constitutionalism. It was especially evident among left-wing parties such as the Spanish Socialist Workers' Party, the Radical Socialist Republican Party, the Republican Action Party, the Republican Left of Catalonia, and the Autonomous Galician Republican Organization. Government and president of the republic could block each other, thus weakening the balance of the executive and the legislative powers.

As a consequence, the chances for enduring parliamentary agreements between parties, though feasible, were reduced.

According to the influential Russian and naturalized French legal scholar Boris Mirkine-Guetzévitch,[2] public lawyers' doctrines in interwar constitutionalism were based on three principles: unifying trends of public law, rationalizing political power, and conceiving constitutional law as a technique to safeguard and improve the freedoms of citizens beyond the restrictions of the constitutions and ordinary laws of the past (Molina Cano 2011: 95). Rationalizing democratic institutions entailed establishing the primacy of constitutions over any other system of rules.

5.2 Constitutional Limits to Presidential Prerogatives

Nevertheless, the rationalization of political power was not a univocal concept. Preventing majorities from enacting discretionary measures that could overrule political and civil freedoms was essential. The Constitutional Court (*Tribunal de Garantías Constitucionales*) was meant to be a mechanism of control aiming at reducing the number of decisions by parliamentary majorities or heads of state that could dismiss legal procedures. If constitutions and constitutional courts were not enough to do so, there was still the relatively unexplored path in which the head of state and parliament would be made compatible with each other without encroaching on government's functions.

In a nutshell, Niceto Alcalá-Zamora and Juan Castrillo sought to diminish the tendency of parliaments towards what Alcalá-Zamora called 'the overflowing of passions' (DSCCRE, 29 October 1931: 2024). About the presidential issue, he said that "we all think that the problem raised has not, cannot have a satisfactory solution".[3] This statement shows that he recognized the downsides of any choice.

Two options were proposed in the constitutional debate over this court when Title VII of the Constitution was discussed, between 4 and 11 November 1931. One was in favour of a rigid control of the constitutionality of laws and opposed to any refusal to accept the Constitution as the supreme law of the country; the other aimed to imitate the model of judicial control already reflected in the Austrian Constitution of 1920. The second option prevailed.

The choice in favour of a 'rationalized' model of parliamentarism granted the president of the republic a series of competences: to appoint the prime minister and to remove him from office a limited number of times (Spanish Constitution of 1931, article 75); to declare war and to make peace; 'to confer civil and military jobs'; 'to issue professional titles'; 'to authorize decrees'; 'to safeguard the security of the nation'; and 'to negotiate, to sign and to ratify treaties and international agreements' (Spanish Constitution of 1931, article 76).

Additionally, the Constitution granted the president of the republic the competence to appoint the president of the Supreme Court (*Tribunal Supremo*) after such a proposal was made by an assembly formed in accordance with a

procedure established by laws (Spanish Constitution of 1931, article 96), and the capacity to pardon criminals following a report from the Supreme Court advising to do so and government proposing it (Spanish Constitution of 1931, article 102).

The party system resulting from the general election of June 1931 eased access to ministerial positions for all those parties that formed the first coalition government. At the same time, disagreements among them grew about the faculties of the president of the republic in the Constitution. The Progressive Republican Party, led by Niceto Alcalá-Zamora, stood for a president of the republic with the capacity to mediate in institutional conflicts. The Radical Socialist Republican Party, led by Marcelino Domingo, instead endorsed a president of the republic with limited competences, subordinated to decisions made by parliamentary majorities.

The capacity of the president of the republic to intervene in parliament in the context of a nascent democracy was often regarded as incompatible with parliamentary democracy. Juan Botella, of the Radical Socialist Republican Party, implied that behind a strengthened presidency was hidden the authoritarianism of kings and dictators of the past (DSCCRE, 3 November 1931: 2107). To build a semi-presidential regime (in Spain, *semiparlamentarismo* or *parlamentarismo atenuado*) without constitutional limits could be detrimental to the legislative power and thus to the very existence of the republican democracy.

5.3 Alcalá-Zamora's Endorsement of a Semi-Presidential Republic

After proclaiming the Spanish Second Republic on 14 April 1931, some members of the provisional government considered Niceto Alcalá-Zamora, of the Progressive Republican Party, the best candidate to be president of the republic (Tomás Villarroya 1989: 134). Alcalá-Zamora argued in favour of extending the competences of the president of the republic and balancing them by the establishment of a Senate. His proposal was rejected by a majority of left-wing MPs: 140 MPs voted in favour of a unicameral system and 83 in favour of creating a Senate (DSCCRE, 27 October 1931: 1970–1971). In the end, the Constitution included the features of a semi-presidential regime, with a high degree of confusion remaining about how the president of the republic and government should work together.

Alcalá-Zamora was especially doubtful about the prerogative of MPs to act both as representatives and delegates of parliament, implying that with their votes as delegates they could validate the legality of general elections (Spanish Constitution of 1931, article 57). He claimed that the competences of the legislative power and the president of the republic should be compatible: the faculty to adjourn or to extend parliamentary debates, to summon extraordinary sessions of parliament (*Cortes*), to suspend constitutional guarantees, to pass laws proposed by government with special authorization from parliament

(Spanish Constitution of 1931, article 61), to pass government decrees, and to amend the state budget (Spanish Constitution of 1931, article 80) (Alcalá-Zamora 1981: 177).

Despite his criticism of radical left-wing MPs, in late October and November, Alcalá-Zamora was even more concerned with the wording of some articles of the Constitutional Draft and the Constitution finally passed on 9 December 1931. For instance, in his diaries, he regretted the wording of articles 57 and 81 of the Constitution. To him, there were two opposite interpretations of those articles: grammatical and literal (Alcalá-Zamora 1981: 207–209). Each conflicted with the other, and this posed a problem for the Constitutional Court (*Tribunal de Garantías Constitucionales*).

Alcalá-Zamora thought that the Constitution allowed the president of the republic to dissolve parliament a maximum of three times and not just twice. If that additional dissolution came shortly afterwards the second, it should be accepted (DSCCRE, 4 November 1931: 2115–2116). He justified it as a beneficial tool of democracy that could be used to remove ministers if they were not backed by public opinion (Alcalá-Zamora 1981: 209). Article 81 could be interpreted in the sense that Alcalá-Zamora claimed only if the intentions of a majority of MPs who endorsed that article were disregarded. Thus, a literal reading authorized the president of the republic to dissolve parliament twice:

> The president shall be able to dissolve parliament (*Cortes*) a maximum of twice during his term in office when he deems it necessary, subjected to the following conditions: a) through justified decree, b) adding to the dissolution decree the call for new elections within a maximum of sixty days.[4]

Manuel Azaña, member of the Republican Action Party and prime minister from 14 October 1931 to 12 September 1933, warned about the problems that the drafting of article 81 could eventually provoke. He thought that the dissolution of the Constituent Assembly should not count as one of the two times that the president of the republic could dissolve parliament (Tomás Villarroya 1988: 35). The independent MP Juan José Santa Cruz proposed an amendment to clarify that ambiguity in the constitutional text. Some parliamentarians asked for additional time to deliberate over the issue in the next session, although it was not discussed then. None of the representatives explained why this was so (Tomás Villarroya 1988: 36–37).

According to how articles 81, 82, and 84 were finally interpreted, the president of the republic could be dismissed in any of these three cases: after a second dissolution of parliament by the president of the republic, the new assembly could decide upon his removal from office (Spanish Constitution of 1931, article 81); after an initiative of parliament passed with the vote of three-fifths of MPs (Spanish Constitution of 1931, article 82); or when three-fifths of MPs presented a formal charge before the Constitutional Court (*Tribunal de Garantías Constitucionales*) (Spanish Constitution of 1931, article 85).

Article 84 of the Constitution of 1931 established that "the acts and rulings of the president of the republic not endorsed by a minister shall be null and not binding".[5] In 1932, Nicolás Pérez Serrano, a member of the office of the secretary of parliament, considered two possible conflicting interpretations of that article in a similar vein to Niceto Alcalá-Zamora. It was unclear whether dissolving a Constituent Assembly should count as one of the two times that the president of the republic could dissolve parliament. This confusion finally led to the removal from office of Niceto Alcalá-Zamora in 1936 (Tomás Villarroya 1981b: 9).

5.4 The Constitutional Characterization of the Presidential Office

The Preliminary Constitutional Draft, the Constitutional Draft, and the Constitution separated the competences of the president of the republic from those of government and parliament, but they also made the president of the republic liable in cases infringing upon his constitutional duties (Preliminary Constitutional Draft, article 65; Constitutional Draft, article 84; Constitution of 1931, article 85). Members of the Legal Advisory Commission aimed in this regard to put into practice a complex institutional system similar to other interwar constitutions, such as that of the Weimar Constitution.

It was believed that the relations between Constitution, parliament, government, president of the republic, and Constitutional Court should be balanced, giving priority to parliamentary initiative but at the same time counterbalancing it through reciprocal check mechanisms between state powers. Following that method, the competences of the executive power should be precisely specified. Establishing the relative autonomy of government and granting the president of the republic only limited faculties should be compatible with a parliament endowed with full legislative attributions. Thus, parliamentary activity would not be overcome by other state powers or institutions.

The main contested issue regarding how the presidential power was to be defined in the Constitution had to do with the confusing competences of the head of state and their contradictory interpretations by politicians, scholars, and the Constitutional Court. The lack of clarity both in the Preliminary Constitutional Draft and in the Constitutional Draft reproduced a pervasive conflict between the parliamentary and the presidential powers. For instance, the faculty of the president of the republic to dissolve parliament did not require ministerial authorization in the Constitution. Even so, MPs should examine and decide on whether a first dissolution by the president of the republic was justified or not if a hypothetical second dissolution of parliament would take place (Constitution of 1931, article 81).

The vagueness and sometimes incongruous readings of the distribution of competences between the president of the republic and government, even among legal scholars, resulted in an impoverished, deficient role for government

when cooperating with the president of the republic. The Constitution of 1931 gave rise to a parliamentary regime in which the traditional relationship between government and head of state was weakened. As a token of this tendency, the Council of Ministers became an independent institution with very limited competences in practice: its president needed the confidence of parliament to act (Artola [1974] 1991a: 175).

5.5 Republican Optimism about a Semi-Presidential Regime

The generally positive view of semi-parliamentarism should be understood in relative terms. It was thought of as an improved alternative to antiparliamentary regimes that could also correct the flaws of purely parliamentary regimes. The so-called tyranny of parliamentary majorities that would destroy the basic mechanisms of a constitutional democracy was perceived as a real threat. Protecting a nascent democracy from these dangers also meant rejecting any choice in favour of presidentialism, which was regarded at odds with modern European constitutionalism.

Mariano Ruiz-Funes, of the Republican Action Party, argued that a parliamentary democracy in which parliament would select by vote the president of the republic was both rational and coherent with the practice of parliamentarism (DSCCRE, 29 October 1931: 2015). Ruiz-Funes presented a special measure to add the votes of city majors to those of the MPs when selecting the president of the republic. He modified this special measure after considering that the total number of MPs (470) was much higher than the number of majors. As a consequence, the president of the republic would be still dependent on the will of parliamentary majorities.

Antonio Royo Villanova, of the Popular Agrarian Minority, addressed the presidential issue as a matter of pragmatism. Any system would entail both advantages and setbacks. If there was a deal among the majority of parties to build a republican democracy on the basis of a parliamentary system, even if moderate, the consequence should be a constitutional text that establishes parliament as the institution to which the other state powers should be legally subordinated (DSCCRE, 29 October 1931: 2020):

> I do not want for my country a possible conflict like the one that faced Wilson with the Senate in Washington; I want for my country the possibility of conflict [*contradicción*] between the president and the chamber, but a conflict [*contradicción*] that will be resolved as it is resolved in France, a purely parliamentary republic.[6]

Alcalá-Zamora, of the Progressive Republican Party, disagreed. Parliament was the main institution of the republican democracy. However, that fact should not justify an overall control of institutions by parliamentary majorities. Fair

elections could not be rejected just because a majority of MPs did not accept the result. Therein, according to Alcalá-Zamora, lay the potential for a dangerous misunderstanding that was to him similar to authoritarian rule, which would erode the legitimacy of the nascent democracy (DSCCRE, 29 October 1931: 2024).

Antonio Royo Villanova, of the Popular Agrarian Minority, went into further detail about that issue, saying that "contradiction between a parliamentary Constitution and a presidential election" was the main hindrance to be faced (DSCCRE, 29 October 1931: 2021).[7] He felt that potential conflicts between institutions, far from being desirable, should be prevented by all constitutional means at hand. Otherwise, the building of a parliamentary democracy would be endangered in the long run.

Instead, Clara Campoamor, of the Radical Republican Party, regarded a semi-presidential regime (*parlamentarismo atenuado*) as the most feasible option for Spain, which could be adapted to the so-called *sui generis* national features of the country (DSCCRE, 3 November 1931: 2093). The abuses of the executive power in the past were acknowledged as a recurrent circumstance of Spain during the nineteenth century. The difference between a functional executive power and a discretionary one was too subtle for representatives of the Republican Action Party such as the prime minister Manuel Azaña and Vicente Iranzo, and also to some radical MPs, as Campoamor's argument evinced.

For instance, the independent republican José Lladó conceived of the parliamentary regime as an imperfect system of separation of powers: 'a regime of link and balance' in which the executive and the legislative powers interfere with each other according to constitutional rules and procedures, thus enabling democratic institutions (DSCCRE, 4 November 1931: 2113). Lladó sketched the example of the French parliament to say that there the head of state was not allowed to dissolve parliament; the Senate was the only institution with the capacity to do so (DSCCRE, 4 November 1931: 2113–2114). Lladó renewed the words of the French statesman Pierre Waldeck-Rousseau in 1896: "the faculty of dissolution enshrined in the Constitution is not a threat to universal suffrage, but a safeguard".[8]

Antonio Royo Villanova, of the Popular Agrarian Minority, offered a defence of parliamentary democracy with a prominent institutional role for the president of the republic in order to coordinate state powers. The parliamentary and democratic convictions of Royo Villanova were evident. He said that there was nothing beyond Parliament, which was the only source of popular sovereignty and the safeguard of democracy against its enemies (DSCCRE, 4 November 1931: 2122). Democracy and parliamentarism were then indissoluble: "After seven years of dictatorship, there should be nothing against parliament, and all the guarantees and precautions should seem few to us to prevent the executive power from opposing parliament".[9]

5.6 The Influence of Central European Constitutions

Spanish representatives were influenced by the Constitutions of Weimar and Austria. Even if, from a practical point of view, the regulation of the head of

state in the Constitution of 1931 resembled that of the French Third Republic, its intellectual roots are to be found in the Weimar Republic. Aiming to vindicate parliamentarism, Jaime of the Radical Socialist Republican Party, offered brief argument about how the Weimar Constitution of 1919 illustrated that parliament and the president of the republic could work together, resorting to referendums in the few cases of conflict between them:

> If the *Reichstag* and the *Reichsrat* cannot agree, the president of the *Reich* can, within three months, order a 'referendum' about the question at issue. If the president does not use this right, it can be considered that the law does not comply with constitutional rules.[10]

According to the constitutional scholar Karl Loewenstein, the method of appointing the president of the republic in the Constitution of 1931 imitated the system of electing the president of the United States (Roura Gómez 1997: 495–497). The Constitution of 1931 handed MPs and a number of delegates the faculty to appoint the president of the republic. That aspect established a crucial difference with the procedure of presidential election in the Weimar Constitution (Roura Gómez 1997: 497). Article 41 of the German constitutional text of 1919 says that "the Reich president is elected by the entire German Nation".

Despite their similarities, the Constitution of 1931 regulated the powers of the head of state without entirely adopting the system of the Weimar Constitution. With regard to presidential power, the Spanish Constitution of 1931 was heir to the French model, where the president of the republic was not allowed to dissolve parliament under any circumstance. These facts partly explain why the articles of the Spanish Constitution that regulated the semi-presidential model (*rationalized parliamentarism*) were poorly coordinated (Corcuera Atienza 1991: 33).

In the Constitution of 1931, the executive power was subordinated to the popular will of electors: Constitution and parliament were placed above any other authority in the democratic republic. "The legislative power lies on the people, which exercises it through parliament [*Cortes*] or the Congress of Deputies" (Spanish Constitution of 1931, article 51). This article was combined with that which regulated the parliamentary control of government (Spanish Constitution of 1931, article 64) and also gave parliament the capacity to appoint or to dismiss the head of state (Spanish Constitution of 1931, articles 81 and 85) (Marcuello and Pérez Ledesma 1996: 34).

The procedure to elect the president of the republic became one of the major concerns for both the first coalition government and opposition MPs in October and November 1931. The candidate to be elected should represent the Spanish nation and its institutions as well. A person of moderate temperament and with experience free of any hint of anti-republicanism, but at the same time acceptable to or even welcomed by conservative and liberal MPs, seemed hard to find among professional politicians. In fact, only two leaders fit these requirements: Niceto Alcalá-Zamora and Miguel Maura, both leaders of the Progressive Republican Party, though only Alcalá-Zamora was an acceptable candidate for left-wing representatives.

After Alcalá-Zamora's appointment as president of the republic, both the press and a majority of MPs and intellectuals received the news with optimism. It was well known that his candidacy was endorsed by left-wing and right-wing parties since the provisional government was formed in April 1931. Conservatism and traditionalism regarded him as able to safeguard a minimum degree of social and economic stability in the new democratic regime: Alcalá-Zamora was a Catholic landowner in favour of moderate economic and social reforms.

Some of the most commonly shared features of interwar constitutions were mechanisms to control the executive power. The root of this fear of possible abuses of the executive power that could undermine the parliamentary institutions of a constitutional regime is to be found in the historical practices of authoritarian regimes. Only ordinary laws, governmental procedures, and a few constitutional reforms left room for the resources of the executive power and the head of state. Both of them were to be instruments of stability, meant to prevent parliamentary majorities from an arbitrary use of the legislative powers that could endanger the processes of deliberation and decision-making. In this sense, it can be useful to see how the concept of sovereignty was debated by two eminent politicians, Niceto Alcalá-Zamora, of the Progressive Republican Party, and Antonio Royo Villanova of the Popular Agrarian Minority.

5.7 Rhetorical Uses of the Idea of Sovereignty by the President of the Republic and the Opposition Leader

The uses of the idea of sovereignty by the head of state, Niceto Alcalá-Zamora and the *de facto* opposition leader, the prominent liberal administrative scholar Antonio Royo Villanova were repeated during the constitutional sessions. Alcalá-Zamora believed that ideal corresponded with the classical understanding of parliamentary sovereignty, whereas to Royo Villanova, the concept of sovereignty entailed, on the one hand, that same meaning and, on the other, the existence of spheres of autonomy for civil, religious, and political institutions based on a clear separation between them.

During the last decades of the nineteenth century, the legal scholars Maurice Hauriou, in France, and Santi Romano, in Italy, had developed the ideas of territorial decentralization and autonomy respectively, as if these were concepts related to the idea of sovereignty. European constitutionalism incorporated that perspective, which was in turn reflected in Spanish MPs' positions (Demarchi 2016: 121). In the European states of the 1920s and the 1930s, the differences between administrative law and public law (*derecho politico*) were difficult to distinguish. As a consequence, the way in which the everyday political activity of state institutions was regulated could be derived from interwar administrative law, a milestone in reforming political institutions. The vindication of administrative law as affecting the public life of European countries was a pervasive idea that could also be found in the writings of the Catholic leader José María Gil Robles, of the Popular Agrarian Minority (Demarchi 2016: 122).

Antonio Royo Villanova, one of the leaders of the Popular Agrarian Minority together with his fellow MP José María Gil Robles, frequently used the idea of sovereignty with several meanings. First, he meant a sphere of autonomy for individuals in civil society and their liberties as independent from state sovereignty. Second, he rejected the idea of sovereignty that many left-wing MPs justified. According to Royo Villanova, the concept of sovereignty is indisputable and incompatible with a decentralization of the state through regional autonomies. The Constitution of 1931 did acknowledge popular sovereignty: article 1 established the people as the source of the powers of the Republic (Spanish Constitution of 1931, article 1).

Nicolás Pérez Serrano, parliamentary advisor in 1931, was acquainted with the ideas of legal scholars such as James Wilford Garner, Friedrick Pollock III, and Eduardo Luis Lloréns. Pérez Serrano emphasized the ambiguity of the term sovereignty in politics since it became part of the political vocabulary. For instance, Garner advised to get rid of the term sovereignty as soon as possible, whereas Pollock III and Lloréns believed that due to its broad use, the idea of sovereignty in politics was essentially ambiguous and generally useless to unravel modern political debates (Pérez Serrano 1976: 124–125). Pérez Serrano stressed that in the twentieth century the priority was not to define the essence of sovereignty, if something like that even existed, but to explore sovereignty as it was understood in modern constitutionalism regarding state institutions. The new question formulated in the interwar period was who holds sovereignty in the contemporary state, as the French constitutional experts Joseph Barthélemy and Paul Duez expressed (Pérez Serrano 1976: 147).

Royo Villanova was influenced by the doctrines of Léon Duguit. The French scholar devoted his career to public law issues. The idea of sovereignty as formulated by Duguit rejects the personality of the state, instead arguing in favour of rules of social interdependence between social groups, public services, and the power of the state (Pérez Serrano 1976: 157–158). Then, administrative issues should also have a role in how popular sovereignty is accomplished in the state. Royo Villanova was well informed about Duguit's doctrines and renewed them in his parliamentary speeches to express a new meaning of sovereignty against alternative doctrines of public law.

Alcalá-Zamora also used the idea of sovereignty to defend the presidential office in a republican democracy against its abuses by the dictator Miguel Primo de Rivera, who usurped popular sovereignty. Whenever he mentioned the term sovereignty, Alcalá-Zamora always meant popular sovereignty represented in the national parliament of Spain. His scholarly training led him to become a well-known lawyer. He finished his law degree at 17 years old and became a lawyer in the State Council (*Consejo de Estado*) five years later.

Unlike Royo Villanova, Alcalá-Zamora understood that the modern meaning of popular sovereignty was represented by the MPs in parliament. Royo Villanova, instead, aimed to broaden the meaning of sovereignty to mean the source of legitimate independence, from the executive, of the Catholic religion, civil society, and individual freedoms within the laws. According to him,

majority rule and laws passed in parliament could not intrude upon the spheres of autonomy of state institutions, which were fully compatible with parliamentary sovereignty but not subordinated to majority rule. However, there were some ambiguities.

There was a repeated misunderstanding of the use of expressions such as 'political system', 'form of government', and 'form of state'. These expressions were indifferently applied with regard to the presidential power (Peña González 2003: 17). Neither Niceto Alcalá-Zamora nor Antonio Royo Villanova noticed that. Traditionally, the expression 'form of government' was the most common way to refer to both monarchic and republican regimes in Spain. The idea of sovereignty seemed like a useful term that could be adapted to any of them. Therefore, the ambiguity of the term was connected to its elasticity, which allowed it to be applied to any justification of a democratic regime.

Antonio Royo Villanova talked about individualism as the essence of political sovereignty, saying that it was not opposed to solidarity and the collective aims of socialism, in spite of the differences between these two concepts. For him, the sovereignty of exacerbated individualism was the main feature of left-wing anarchism, but not of liberalism (DSCCRE, 11 September 1931: 892). The ideological clash between liberalism and socialism was not seen as irreconcilable. It could provide, instead, an additional reason to defend parliamentary democracy:

> I already know that there is a modern doctrine, that one of the famous Kelson [sic], that supposes that the sovereignty of states is covered within international law and that parliaments make everything that international law does not forbid them, and in that normative gradation of national law, the inner law, constitutional law, administrative regulation, in that gradation [Kelsen's doctrine] puts international law above.[11]

Niceto Alcalá-Zamora used the idea of sovereignty to strengthen parliamentary democracy against any institutional or external threat. In his vocabulary, to say parliamentary sovereignty meant military order, economic freedom, economic justice, and fair laws (DSCCRE, 23 September 1931: 1093). Both Royo Villanova and Alcalá-Zamora agreed with the idea that parliamentary sovereignty was the essence of democracy, yet Royo Villanova had a broader idea of political sovereignty that meant the independence of political, civil, and economic institutions from discretionary powers (DSCCRE, 23 September 1931: 1108).

Royo Villanova did not reject the classical meaning of sovereignty. Sovereignty and effective power could be transferred to the provisional government. Parliament was the institution that legitimized the provisional republican government and was the source of sovereignty itself: "Parliament is open; the provisional government is here accountable; we confirm that it has our confidence; but sovereignty lies with us: This parliament [*Cortes*], with a single chamber, is today the national sovereignty".[12]

As a liberal, Royo Villanova thought that "the organ of sovereignty is that one which makes the law; what characterizes sovereignty is the faculty to make the law".[13] He opposed any means that would raise the president of the republic to be sovereign power over parliament (DSCCRE, 23 October 1931: 1211). That was unacceptable if a true parliamentary democracy was to be effective in Spain. Sovereignty was a plural idea that entailed the exercise of political powers but, in all cases, not separated from parliament (DSCCRE, 30 October 1931: 2072).

Alcalá-Zamora's reflection on the sovereignty of the Spanish parliament and his own role as president of the republic explains why he was especially concerned with political stability and the loyalty of political parties to parliamentary democracy:

> We thought that in critical moments like this, and when the sovereign parliament (*Cortes*) drafts the Constitution of the Spanish Republic, such a heterogeneous government, that needs to remain united, could not have a view about problems so open to deep discrepancy.[14]

Alcalá-Zamora's readings on constitutionalism are unknown, but Royo Villanova was acquainted with the writings of Boris Mirkine-Guetzévitch, who affirmed in 1929 that parliamentarism was unanimously agreed upon in interwar constitutions, without any other feasible alternative being represented. Mirkine-Guetzévitch's thought already reflected the necessity of reducing the technical capacities of the parliamentary power as a corrective measure against its excesses (García Canales 1995: 111). The idea of the division of powers cannot be separated from the concept of sovereignty developed by Spanish MPs during the constitutional sessions (Peña González 2003: 25).

Unlike the Weimar Constitution, the Spanish Constitution of 1931 enshrined the sovereignty of parliament in a system of triple balance between president of the republic, government, and parliament. Despite the fact that both constitutions shaped a semi-presidential regime, the Weimar Constitution as conceived of by Hugo Preuß only attributed to parliament one way of influencing government: the open expression of distrust. That circumstance eased to form coalition governments, as occurred in the ending phase of the Weimar Republic (Lübbe-Wolff 2019: 257). However, the case of the Spanish Second Republic was not identical.

Spanish MPs had to decide on how to appoint ministers, by choosing among the paths provided by European constitutions. One week after the Constituent Assembly was summoned, Antonio Royo Villanova, of the Popular Agrarian Minority, presented an urgent proposal to prevent parliament from assuming powers which were not previously established as functions of legislative assemblies. For him, the first step of parliament was to decide on who should be the head of state, with competences to issue decrees and regulations. The argument of Royo Villanova, even when denied by Niceto Alcalá-Zamora, was not

answered by other representatives (Revenga Sánchez 1989: 200–201). The idea of sovereignty sketched by both of them showed their democratic engagement.

The office of the president of the republic could not be separated from the constitutional idea of sovereignty, as if it were an external, antidemocratic institution. Popular sovereignty also had to do with checks. According to Niceto Alcalá-Zamora, the Constitutional Court and the president of the republic were the guarantee of democracy, together with parliament. Regulating their functions within the Constitution demanded intelligence and the will to bargain between parties. Nevertheless, the lack of a clearer wording of the articles in title V led to a permanent confusion about how to interpret the functions of the president of the republic and parliament.

5.8 Concluding Remarks

This chapter has sought to clarify the features of the discussion about the role that the president of the republic would assume. After the passionate and divisive deliberations about the religious question and property rights, during the sessions of late October and early November 1931, the constitutional status of the president of the republic was discussed without heated speeches. The ideological clash that characterized the religious and property rights issues was reduced. Representatives tended to prioritize arguments about the advantages and problems that could derive from either a strengthened presidency or a semi-parliamentary regime in which the legislative power would not be limited in any sense by the presidency.

The discussion about the presidential office was used by liberal representatives such as Antonio Royo Villanova and Niceto Alcalá-Zamora to introduce their own ideas of sovereignty. They made popular sovereignty through parliament compatible with the defence of the general idea of sovereignty. That idea of sovereignty entailed spheres of autonomy for individuals and associations that the counterbalance of state powers should maintain. Alcalá-Zamora, the first president of the republic (December 1931–April 1936), and his own party, the Progressive Republican Party, argued in favour of extending the powers of the president of the republic to allow him to mediate between institutions. The liberal leader of the Popular Agrarian Minority, Antonio Royo Villanova, agreed with left-wing political parties, such as the Spanish Socialist Workers' Party and the Republican Action Party, that the closer the Constitution came to strengthening parliament, the more likely institutional stability could be achieved.

Notes

1 Niceto Alcalá-Zamora was also appointed head of government of the provisional republican government (*presidente del gobierno provisional*). He remained in office from 14 April until his resignation on 14 October 1931, being replaced by Manuel Azaña. Two months later, Alcalá-Zamora accepted the office of head of state (*presidente de la República*).

2 Boris Mirkine-Guetzévitch wrote *Les Constitutions de l'Europe nouvelle* (1928). There, the comparison between constitutions is nurtured by a comprehensive analysis of the advantages of parliamentarism and modern constitutionalism.

3 "Creemos todos que el problema que se plantea no tiene, no puede tener solución satisfactoria" (DSCCRE, 29 October 1931: 2024).

4 "El Presidente podrá disolver las Cortes hasta dos veces como máximo durante su mandato cuando lo estime necesario, sujetándose a las siguientes condiciones: a) por decreto motivado, b) acompañando al decreto de disolución la convocatoria de las nuevas elecciones para el plazo máximo de sesenta días" (Spanish Constitution of 1931, article 81).

5 "Serán nulos y sin fuerza alguna de obligar los actos y mandatos del Presidente que no estén refrendados por un Ministro" (Spanish Constitution of 1931, article 84).

6 "No quiero para mi país un conflicto posible como el que resultó con Wilson en su disidencia con el Senado de Washington; quiero para mi país una posible contradicción entre el Presidente y la Cámara, pero contradicción que se resolverá come se resuelve en Francia, República puramente parlamentaria" (DSCCRE, 29 October 1931: 2021).

7 "El gran problema de derecho público es el que está flotando en la Cámara, el que seguirá flotando siempre, el que no se suprime: la contradicción entre una Constitución parlamentaria y una elección presidencial" (DSCCRE, 30 October 1931: 2072).

8 "La facultad de disolución inscrita en la Constitución no es una amenaza para el sufragio universal, sino una salvaguardia" (DSCCRE, 4 November 1931: 2114).

9 "Después de siete años de dictadura, no debía haber nada en contra del Parlamento, y todas las garantías y precauciones debieran parecernos pocas para evitar que el Poder ejecutivo tenga medio de oponerse al Parlamento" (DSCCRE, 4 November 1931: 2121).

10 "Si el Reichstag y el Consejo del Reich no pueden ponerse de acuerdo, el Presidente del Reich puede, en un plazo de tres meses, ordenar un 'referéndum' sobre lo que es objeto del conflicto. Si el Presidente no hace uso de este derecho, la ley es considerada como no ajustada a las reglas constitucionales" (DSCCRE, 4 November 1931: 2123).

11 "Yo ya sé que hay una doctrina moderna, la del célebre Kelson [sic], que supone que la soberanía de los Estados está comprendida dentro del Derecho internacional y que los Parlamentos hacen todo aquello que el Derecho internacional no les prohíbe, y en aquella gradación normativa de la ley nacional, de la ley interior, de la ley constitucional, del reglamento administrativo, en esa gradación pone el Derecho internacional por encima" (DSCCRE, 18 September 1931: 1027).

12 "Se abre el Parlamento; el Gobierno provisional rinde aquí sus poderes; le ratificamos nuestra confianza; pero la soberanía está en nosotros: estas Cortes, con Cámara única, son hoy la soberanía nacional" (DSCCRE, 24 September 1931: 1132).

13 "El órgano de la soberanía es el que hace la ley; lo que caracteriza la soberanía es la facultad de hacer la ley" (DSCCRE, 24 September 1931: 1132).

14 "Pensábamos nosotros que en trances como este, y cuando las Cortes soberanas elaboran la Constitución de la República española, un Gobierno de tal heterogeneidad y que necesita mantenerse unido, no podía tener parecer sobre problemas en que son posibles tan profundas discrepancias" (DSCCRE, 6 October 1931: 1472).

4 Property Rights and the Limits to State Action (September to October 1931)

Property rights, in a similar vein to freedom of conscience, had a variety of meanings ideologically classifiable. For instance, to members of the Spanish Socialist Workers' Party, property rights should be transformed, as soon as possible, into a collective idea of rights. For moderate left-wing parties such as the Republican Action Party, individual property could only subsist when subordinated to the general interests, even if expropriation without economic redress would be authorized in some cases. For right-wing centrist liberal parties such as the Progressive Republican Party and the Liberal Democratic Republican Party, the right to private property should be compatible with state seizure only by means of economic compensation by the state. For right-wing traditionalists of the Popular Agrarian Minority and the Basque-Navarre Minority, only an individualistic conception of property rights made sense: any conception of social or collective property was thought of as a threat to individual natural rights.

Property rights were enshrined in the Preliminary Constitutional Draft of 1931. European and Spanish contexts of interwar politics make sense of how the idea of property rights was reformulated and the competences of public powers extended to regulate it. Legislators would have to envisage constraints on property rights. The scope and pace of agrarian reform led to heightened discussions between representatives of the Spanish Socialist Workers' Party, the Radical Republican Party, the Republican Action Party, the Popular Agrarian Minority, and the National Action Party.

The Legal Advisory Commission considered state seizure with a social function to benefit the interests of small farmers and peasants without land. State seizure was agreed and planned by the members of the Agrarian Technical Commission (*Comisión Técnica Agraria*). The parliamentary sessions of the constitutional debate about property rights, held between 27 August and 4 September 1931, show the disagreements between government and opposition. The regime of property rights was finally connected to gradual and partial socialization with a prerogative of parliament to decide on cases of major seizure of properties.

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4.1 Private Property in Spain: A Historical Perspective

Since the beginning of the twentieth century in Spain state intervention was justified in line with European social reformism. José Canalejas, liberal minister of Agriculture, Industry, Commerce and Public Works during the first months of 1902 and prime minister from 1910 until his assassination in 1912, was the driving force of land reforms. His doctrine of agrarian reform and state seizure was influenced by French, British, and German ideas on new forms of property and social relationships, spread during the second half of the nineteenth century and the first years of the twentieth century (Robledo Hernández 2007: 97). His liberal leaning was compatible with his role as a sort of reformist heir to Joaquín Costa's *regeneracionismo*.[1]

In contemporary terms, Ricardo Robledo contextualized the debate over state seizure during the Spanish Second Republic by bringing up the failed attempts to implement forced expropriation by José Canalejas. His proposal of state seizure was rejected by the majority of opposition MPs. Canalejas, however, thoroughly detailed how state seizure, if it was passed by parliament, would be funded through special budgets. That reformist plan was perhaps the most elaborated of those that utilized ordinary laws for state expropriation (Robledo Hernández 2012: 371).

The political and ideological changes that took place in Spain during the 1920s, when the economy of the country was improved as a consequence of the increase in exports and a generally favourable tendency towards international commerce in Europe, unleashed reformist trends among politicians and ideologues. They were very often optimistic, aiming to gradually transform the very idea of property rights as had happened in the Constitution of Mexico of 1917. Those changes relied on the recent economic reforms in Europe but also reflected a favourable tendency towards state interventionism in the economic organization common to interwar politics. In that regard, Spanish MPs did not push for major innovations regarding private property when compared to European and American constitutionalism. Following the Weimar Constitution of 1919, they chose to regulate property through ordinary laws, adapting the principle of the 'common best': "Property is guaranteed by the constitution. Laws determine its content and limitation. Expropriation may only be decreed based on valid laws and for the purpose of public welfare" (Weimar Constitution of 1919, article 153).

Unlike the Weimar Constitution, the Spanish Constitution of 1931 subordinated property rights to socialization. Gradual socialization was considered a necessary means to implement a new model of property based on criteria of equality. But that attempt was far from any concrete plan giving expression to this due to the contradictory demands of parties in the first coalition government. Radical socialist MPs were in favour of massive expropriations from landowners, whereas the Spanish Socialist Workers' Party and the Republican Action Party aimed to carry out a gradual expropriation starting with the

largest landowners. In the Spanish Constitution of 1931, article 44 regulated private property as follows, in paragraphs two and three:

> Property of all sorts of goods shall be the object of forced expropriation due to social usefulness, through fair redress, unless a law passed with the votes of the absolute majority of parliament (*Cortes*) stipulates otherwise. With the same requirements, property may be socialized.[2]

Nevertheless, in 1929, two years before the Spanish Second Republic was proclaimed, the newspaper *El Socialista* urged the implementation of state seizure as the first step to agrarian reform and the redistribution of lands among day labourers. The close connection of this newspaper with the Spanish Socialist Workers' Party helped introduce some of the policies that socialist MPs already had in mind in order to improve the conditions of industrial workers, peasants and day labourers by mitigating poverty in rural areas (Sánchez Jiménez 1987: 215).

Two years later, in 1931, the Italian legal scholar Giuseppe Chiovenda published an article titled 'Acerca de la naturaleza de la expropiación forzosa' ('On the nature of forced expropriation') in the Spanish journal *Revista General de Derecho y Jurisprudencia*. He understood that the concept of expropriation would not only be applied to property but also to other legal fields, if the state administration required it (even if those criteria to allow such state seizures did not yet in the Constitution, pending ordinary legislation). In this case, the right to fair redress would follow that new practice of gradual expropriation. Accordingly, Chiovenda argued that depriving someone of the custody of their children or seizing certain goods due to lack of means (for instance, to pay a debt) could be classified as cases of legal incapacity for an individual with regard to expropriation (Chiovenda 1931: 556–557). Following that thread, state seizure of lands resembled a principle of expropriation that seemed to be in accordance with other similar legal practices and also aimed at redefining the very ideas of property rights and expropriation.

The doctrine of the social function of private property was partly rooted in the writings of Léon Duguit in France. For him, private property was not a subjective right predating the state, as was understood by iusnaturalism in the past. In that traditional sense, private property was a purely individualistic idea. Duguit regarded it as insufficient and inappropriate to the new societies of the twentieth century. In his view, traditional individual rights, such as property rights, tended to be replaced: the social function of freedoms was the core of new constitutional states (Pasquale 2014: 103).

In a handbook of civil law published in 1932, one year after the passing of the Constitution, the expert in notary and administrative law José Castán Tobeñas distinguished two systems of private property that were each incompatible with the other. The first of them corresponded to the classical understanding of individual property. The free use of private property was in the hands of the owners. Accordingly, the state could not be a receiver of property but was an organ to

regulate and protect owners' rights through laws. The second of them was the concept of property defended by socialist movements. Integral socialism, the socialism of the means of production, and agrarian socialism regarded the state as repository of properties empowered to transfer that right and put into practice the distribution of properties. Only in the case of mitigated socialism were small owners' property rights protected (Peset 1999: 468–469).

In 1950, during the dictatorship of Francisco Franco in Spain, the concept of private property was not defined by its social function, but was acknowledged in accordance with the liberal idea of the Spanish nineteenth century by the *de facto* discretionary measures that the dictatorship adopted. Any sort of seizure or expropriation was regarded as an abuse of 'functional law' against owners by imposing restrictions on a basic right. The collectivization of properties was regarded as the erasure of that right (Gefaell 1950: 362). That idea of property rights was directly opposed to interwar ideas about ownership and was also hardly compatible with the Spanish constitutional history of the second half of the nineteenth century.

Nevertheless, by 1931, Spanish authorities lacked any detailed information about the number of day labourers in the country and what amount of land would be available for them even if an ambitious agrarian reform was to be implemented. This circumstance can be explained as the result of the poor administrative organization during the 1920s for the collection of data about the distribution and size of land ownership and employment (Simpson and Carmona 2017: 44). However, the Constitutions of Weimar and Mexico laid out some of the limits and guarantees to private property that Spanish MPs in the Constituent Assembly took into account.

4.2 Property Rights in the Preliminary Constitutional Draft

The members of the subcommittee within the Legal Advisory Commission thought of a range of cases permitting state seizure with a proportional redress for owners. Together with that idea, some of the argumentative elements of the political parties involved in the constitutional sessions are advanced. Despite its vagueness, the idea of social usefulness was assumed in Spain, with similarities to its legal and political meaning in other European and American countries, especially Mexico. The new concept of property sketched in the Constitution of 1931 drew on a model of socialized property to be decided by public powers in the future of the republican regime, thus going beyond its social function. Indeed, that ideal was incompatible with a true acknowledgement of private property in the Constitution. Property rights would be devalued in a constitutional sense if they were to be gradually socialized.

One of the reasons for talking about 'restrictions on state action' instead of an alternative wording, such as for instance 'restrictions on the intervention of ownership' (something that might seem more appropriate at first glance), has to do with how the MPs interpreted property rights as a matter to be

regulated through laws, either by preventing public powers from expropriating and setting constitutional limits to be interpreted by judges or by allowing public powers, including government and parliament, to decide on some cases of public expropriation.

The deliberation over property rights was not just about restrictions on the intervention in ownership but also about to which degree public powers could legitimately use state institutions to carry out electoral programmes of agrarian ownership reforms. It should be highlighted that parliament had the constitutional possibility of deciding on some cases of public expropriation. State intervention through laws (not excluding ordinary ones) was acknowledged in article 44 of the Constitution of 1931, as expropriation by reasons of public utility was as well. Article 45 was even more explicit, leaving room for ordinary laws to regulate expropriations.

The constitutional trend in favour of extending state competences into any aspect of public life to satisfy heterogeneous social demands over any particular individual right was also understood as a process to 'rationalize' freedoms through legal means. Otherwise, property could be considered an obsolete right by democratic socialism. Indeed, the Preliminary Constitutional Draft was turned down insofar as it was regarded as less ambitious than popular demands by left-wing parties. As a result, for left-wing MPs, without remarkable exceptions, private property should be distinctly regulated as a public good to be distributed in accordance with the restrictions of governmental authorities.

In the ideological debate around a strictly individualistic conception of private property, there was a permanent ideological conflict with the political project to gradually socialize ownership, as defended by left-wing parties. Between both maximalist conceptions, there was an intellectual debate in which public lawyers were determinant to reconceptualizing the idea of private property. The Preliminary Constitutional Draft assumed to a great extent the leftist idea of state intervention, even though it attended to the right of owners to fair compensation, in line with article 10 of the Spanish Constitution of 1876.[3] The rejection of that draft by a majority of parliament opened up a broad field of ideological and intellectual confrontation about the concept of property.

The Preliminary Constitutional Draft written by the members of the Legal Advisory Commission and the Constitutional Draft presented to parliament differed from the text finally passed regarding the wording of the article that would justify state seizure. The second paragraph of article 42 of the Constitutional Draft says that "the state, which currently acknowledges private property in direct relation to the useful function that the owner performs, will proceed gradually to its socialization",[4] whereas in the Preliminary Constitutional Draft article 28 rejects to impound goods and excludes a gradual socialization of properties: "The content, limits and extension of that right shall be settled by laws attending to its social function. It shall not impose the penalty of confiscation of goods".[5]

As a consequence, the traditional idea of private property was portrayed as both an individual right of owners and a collective right granted by the state. If

property rights were not an exclusive right of individuals, then public powers should also decide on their administration under certain circumstances. Private property had ceased to be an inviolable concept and became subordinated to public interests much before the Constitution of 1931, at least since the Constitution of 1845.[6]

In that vein, the gradual expropriation of private property tending towards socialization was more ambitious than establishing the social function of property. The meaning of expropriation was clear, but the idea of social function had a vague outline. Could owning land that had a low level of productivity justify state seizure? Or, perhaps, should the social function of property be based on the number of day labourers working the land of an owner?

4.3 Conceptual Disagreements about Property Rights and Agrarian Reform

The conceptual dispute that arose in interwar constitutionalism transformed the idea of property to legitimize state intervention in broad terms. It did not necessarily mean the violation of property rights but their subordination, in the Spanish case, to ordinary laws that conflicted with the free enjoyment of property rights. Nonetheless, the Preliminary Constitutional Draft explicitly safeguarded a sort of property that should be "legally transformed" without including any means of complete or gradual socialization. That was a crucial difference between the Preliminary Constitutional Draft and the Constitution of 1931. To accept socialization in special cases, as the Preliminary Constitutional Draft established, had nothing to do with the gradual socialization of all types of properties.

For the MPs of the National Action Party, any severe restriction on property rights would mean an attack on personal freedom and individuality and would be the worst scenario for economic stability. The threat of the complete socialization of private properties was thought of as the end of civil peace and the coexistence of individuals with opposite ideologies (Artola [1974] 1991b: 382–383). Then, for conservative and liberal MPs, property rights were not an aspect of social transformation, but a condition to encourage effective economic growth and a capable administration, and thus to improve the country. In the view of conservative traditionalists, any other concept of property rights meant to assume its disappearance. Balancing the interests of owners, primarily landowners, with those of day labourers without land was difficult to achieve. A gradual socialization would erode the rights of both large and mid-sized owners, whereas any other alternative was likely to provoke a quick radicalization of peasants without land, increasing the chances of political success for the antidemocratic alternatives of anarchism and revolutionary communism.

On 15 April 1931, the Legal Statute of the Provisional Government, prepared by Alejandro Lerroux of the Radical Republican Party, unambiguously argued in favour of an agrarian law that would respond to the social aims of land property as understood in modern states (López López 2016: 78). Lerroux

did not dismiss a regime of property in which the state could intervene. The agrarian reform, if feasible through the extension of property rights to those peasants without land, should be based, according to moderate MPs, on policies aimed to enhancing productivity. Radicals believed that any deal with other political parties with regard to agrarian reform (sometimes indistinguishable from a complete reform of property rights) should be clear enough to gain the support of mid-size owners.

The new agrarian reform made patent that one of the priorities for the republican government was to implement a series of reforms to upgrade the life conditions of labourers, either gradually or immediately, even with budget increases in a context of worsening economic conditions. In fact, Spain was the only West European country in which a programme of land reforms was implemented in the interwar years (Morawski 2019: 23). The social aim of easing the access to small properties for day labourers was thought to have direct, visible benefits for them. Thus, gradual seizure should be developed through ordinary laws, defining in the Constitution that property rights were not unattainable for the lower classes. According to left-wing parties, only the coordination of the Constitution and ordinary laws through government initiative could guarantee social and economic improvements for social groups.

4.4 The Legal Framework of Property Rights

Manuel Azaña, prime minister since 14 October 1931 and leader of the Republican Action Party, aimed to undermine the revolutionary strategy that anarchism and communism embodied. Through a revolutionary appeal to an ambitious agrarian reform, Azaña expected that the growth of antidemocratic parties could be curtailed. Thus, the agrarian reform seemed to entail, to a great extent, a strategy to gain popular support amongst the impoverished classes that could be prone to joining violent uprising against democracy. To be successful that ambitious policy of land distribution should enable more productive farming, thus contributing to lower unemployment without unleashing negative consequences in other social and economic spheres (Carrión 1931: 31). An unsuccessful agrarian reform would erode the legitimacy of the republican regime before the hopes of the poorer and middle classes.

Manuel Azaña's efforts to implement an agrarian reform were backed by legal counsel. In 1931, Fernando Campuzano y Horma, a prominent scholar in agrarian law, declared himself against the individualistic idea of private property. To him, that conception was wasted on or insufficient for right-wing and left-wing groups, with the exception of agrarian conservatism, some monarchic groups, and the Basque-Navarre representatives. Campuzano y Horma thought private property "as a right belonging to social ends" that should have priority over individual ends (Campuzano y Horma 1931: 634).

Seizure could be accepted in special circumstances after courts of justice had made a decision about depriving individuals of their possessions. To Campuzano y Horma, those mechanisms of expropriation did not mean that the

social function of property was in contradiction with the particular interests of owners. The special case of land property had to do with particular regulations that would also enable specific understandings of property, both individual and collective. According to the Spanish laws, that type of legal objection was protected as *derecho inmobiliario* (land law) (Campuzano y Horma 1931: 624–625).

In a similar way to the proposals of socialists, radical socialists, and the Republican Action Party, the Radical Republican Party aimed to declare 'Spanish soil' an 'inalienable property of the nation'. The Congress of Republican Democracy (*Congreso de la Democracia Republicana*) held in 1920 and the circular letter of the Central Board (*Junta Central*) in 1931 sketched an agrarian reform to benefit growers by easing state seizure (de Blas 1983: 147). That reformist programme was indeed opposed to the one defended by the Radical Republican Party in the Constituent Assembly.

Only during the constitutional sessions of 1931 did it become clear to Alejandro Lerroux and his fellow members that the defence of traditional property rights by radical republican MPs should combine the idea of collective property embodied by the Spanish nation with the existence of an inviolable individual right to property. Rafael Guerra del Río, member of the Radical Republican Party, affirmed that the duty of his party was to endorse those proposals agreed upon by the majority of MPs. Its model of social protection of democracy left room for new social and working regulations, free trade unions, the right to strike, collective bargaining, and arbitration organisms that could be formed by owners, workers, and technicians (Vallejo Pousada 2008: 210).

The Radical Republican Party defended its own agrarian reform agenda as an alternative to that of the Spanish Socialist Workers' Party, the Radical Socialist Republican Party, and the Republican Action Party. According to centrist radicals, the interests of the owners and the pursuit of productivity should be compatible with the gradual access of day labourers to property. To avoid gradually increasing taxes over extensive properties and economic redress in cases of state seizure, some measures were promoted. The Radical Republican Party presented a reform to directly benefit farmers and day labourers, even those with small properties, against absenteeism (Vallejo Pousada 2008: 208–210). That reform can be understood not only as a strategy to slow down the reformist pace of the first coalition government but also as an attempt to coordinate with the moderate programme of liberal right-wing parties.

The Republican Action Party, through Manuel Azaña, was favourable to implementing redistributive policies and to expanding the capacity of public powers to intervene in the economic and social structures of the country (the agrarian reform was the first step to proceed), together with a gradual policy of commercial openness. The Radical Socialist Republican Party, instead, justified extraordinary measures to tax earned income and to lower taxes for workers, peasants, and day labourers. Indeed, radical socialism aimed to enshrine social and labour rights of wage-earners in the Constitution. In the electoral programme of radical socialism, control over social activities, capital returns, 'work', 'intangible patrimony', and 'social assistance'

was recognized as a set of state competences (Artola [1974] 1991b: 328–331; Vallejo Pousada 2008: 213–214).

Unlike those two parties, the Spanish Socialist Workers' Party went beyond agrarian, social, and work-related policies. Even if it was presented in a very vague sense and unclear from a formal point of view, its financial plan for the economy seemed much more intensive than any other: "to nationalize the Spanish Central Bank (*Banco de España*), to abolish indirect taxes, to establish progressive taxation on income and benefits, to abolish the public debt, commercial free trade, to nationalize the subsoil, arsenals, and means of transport" (Vallejo Pousada 2008: 219). That radical programme was unattainable in practice but was also open to changing social and political circumstances. Internal divisions among socialist MPs were constant before and during the constitutional sessions of 1931. Despite the ability of Indalecio Prieto and Francisco Largo Caballero to keep a minimum degree of cohesion within the Spanish Socialist Workers' Party, their programmatic differences were manifested publicly.

Advancing an agrarian reform with a larger impact on property distribution than during the Bourbon Restoration (1874–1931) was regarded as a renewed effort endorsed by republican parties. Largo Caballero sought to benefit the working class and, fundamentally, peasants without lands. Beyond performing his duties as Labour minister, he repeatedly called for mass mobilization in favour of an ambitious agrarian reform exceeding the expectations of liberal republican parties (Preston 1977: 121).

4.5 Property Rights According to the Legal Advisory Commission

The clashes between the Spanish Socialist Workers' Party and the Radical Socialist Republican Party during the constitutional sessions did not exclude their agreeing on a middle ground of a mixed conception of property rights, as defended by the Radical Republican Party, the Progressive Republican Party, and the Liberal Democratic Republican Party. Without taking into account these debates on the features of property rights, it is hardly possible to conceive of how a Legal Advisory Commission led by an independent Catholic, Ángel Ossorio y Gallardo, could accept a concept of ownership in which public powers were also entitled to become legal owners of private property and to impose restrictions on that right.

As a token of new public debates on property rights in Spain, the issue of expropriation was addressed by the president of the republic and member of the Progressive Republican Party, Niceto Alcalá-Zamora. His doctoral thesis, defended in 1922 (nine years before the Constituent Assembly of 1931) with the title *The Course of Forced Expropriation* (*Los derroteros de la expropiación forzosa*) echoed cases in which state seizure could be considered legitimate (Infante and Torijano 2012: 229).

Those concerns of interwar constitutionalism were known by the members of the Legal Advisory Commission that prepared the Preliminary Constitutional Draft. Deliberations on the Preliminary Constitutional Draft had been taking place since May 1931, led by Ángel Ossorio y Gallardo through a subcommittee formed by Adolfo Posada (a legal scholar), Francisco Javier Elola (Radical Republican Party), Valeriano Casanueva (Spanish Socialist Workers' Party), Manuel Martínez Pedroso (Spanish Socialist Workers' Party),[7] Nicolás Alcalá (Group at the Service of the Republic), Agustín Viñuales (Republican Action Party),[8] Antonio Rodríguez Pérez (Autonomous Galician Republican Organization), Alfonso García Valdecasas (Group at the Service of the Republic), Francisco Romero (independent), Luis Lamana (lawyer), Antonio de Luna (diplomat, lawyer, and professor of law), and Juan Lladó (lawyer in the State Council, *Consejo de Estado*) (Juliá 2009: 34).

Article 42 of the Preliminary Constitutional Draft reflected the ideological balance of the Spanish Socialist Workers' Party, the Radical Republican Party, and the Republican Action Party with the liberal conservatism of Ángel Ossorio y Gallardo. Their disagreements were not irreconcilable. It is remarkable that the subcommittee did not include MPs of the Radical Socialist Republican Party or the Republican Left of Catalonia. The wording of article 42 and its justifications were compatible with a full acknowledgement of the right to redress in cases of state seizure. That aspect was enough to satisfy the demands of Ángel Ossorio y Gallardo and legal scholars.

Nevertheless, the influence of interwar European constitutionalism on the new ideal of private property was assumed. Following that thread, state intervention seemed to be the only chance to better the condition of the poorest classes that did not have their own land. This was regarded as the first step in modernizing the nascent republican regime. At the time, socialization of properties was normally justified by public authorities and courts of justice through economic redress.

Among the projects of agrarian reform developed during the Spanish Second Republic, the first of them, and also the most ambitious, was put into practice by the Agrarian Technical Commission (*Comisión Técnica Agraria*) in July 1931. That commission was formed by some of the most prominent minds of the country in economic, legal, and agricultural affairs with varying degrees of expertise. Nonetheless, in the end, after a draft was presented to the president of the republic, Niceto Alcalá-Zamora refused to accept it (Robledo Hernández 2012: 373). One month later, Alcalá-Zamora himself endorsed a new proposal, less ambitious regarding expropriation and redistribution of land, and more closely aligned with the interests of medium and large owners (Robledo Hernández 2015: 27).

The agrarian reform, as conceived of by the members of the Society for Political, Social and Economic Studies (*Sociedad de Estudios Políticos, Sociales y Económicos*), left room for proportional redress to be decided upon and accomplished gradually and for the transformation of the general property regime from one

dominated by large estates into a fraternal socio-economic regime imagined in highly idealistic terms (Carrión 1931: 10). The aims of state seizure were not just the allotment of lands to day labourers or other measures to satisfy the demands of the poorer classes from the countryside. The first coalition government rather seemed to believe that their agreement on state seizure would be accepted in the end by the centre and centre-right political parties, even if reluctantly.

The Agrarian Technical Commission was created on 21 May 1931 and consisted of 33 members. It was led by the independent MP Felipe Sánchez Román and was conceived of as the main organ to promote agrarian reform. The social function of property that the republican coalition government admitted was explicitly justified by this commission in one of its first legal measures, enacted by decree. Although it was formed to be an advisory board, its members described private property as a public service in one of the reasoned decrees passed by government. Many of them were also active in the reformist strategy of the first coalition government (Díaz Álvarez 2004: 269–270).

The provisional republican government promoted that agrarian reform plan and thought that it should consist of a set of laws backed by the Constitution, leaving broad margins for their implementation. Some members of the coalition government were convinced that the axis for renewing and strengthening the republican democracy was the distribution of lands among agrarian labourers. That was intended to produce a radical, unprecedented social, political, and industrial transformation of Spain (Merchán 2004: 398). In addition, left-wing MPs likely found an additional reason to endorse the agrarian reforms in the assumption that democratic institutions would then be accepted by a large number of peasants, thus diminishing the forces of anarchism and communism in rural areas and at the same time strengthening the popularity of the republican democracy there. The Legal Advisory Commission set up a framework to carry out the agrarian reform within strict legal limits, to prevent MPs from exercising discretionary powers.

4.6 The Parliamentary Debate on the Principle of Expropriation

Two rhetorical strategies can be distinguished in the debate on private property. MPs in the coalition government considered the principle of expropriation a modern one, inspired by interwar constitutionalism. They claimed that no modern, advanced constitution should dispense with it. Conversely, opposition MPs appealed to the defence of individual freedoms and the risk of arousing fears over violations of justice that could diminish the loyalty of landowners and farmers to the republican democracy – people who in other circumstances would accept that new political regime.

Luis Jiménez de Asúa, of the Spanish Socialist Workers' Party, announced in the inaugural address of the constitutional debate that the Constitution was

clearly based on left-wing ideology, though it was not socialist for it acknowledged the right to private property (DSCCRE, 27 August 1931: 647–648). One day later, his fellow MP Lucio Martínez Gil was more radical in his speech, saying that the "sacrosanct principle of property" was a sign of the landowners' interests in keeping their properties regardless of any kind of social reform (DSCCRE, 28 August 1931: 661). Both MPs equated social reformism with limits to the use of private property by individual owners. Therefore, social reform clearly outlined, in the vocabulary of left-wing parties of the first coalition government, a series of policies and laws to transform private property.

Jiménez de Asúa willingly discarded the elimination of ownership to distinguish the Spanish Socialist Workers' Party from strictly Marxist parties with communist leanings. That seemed clear when he revealed his disagreements with Juan Botella, a member of the provisional government and one of the leaders of the Radical Socialist Republican Party (DSCCRE, 6 October 1931: 1472–1473). Jiménez de Asúa's choice resembled an alternative to the socialization of properties inspired by both the Mexican Constitution of 1917 and the Weimar Constitution of 1919.

Responding negatively to the proposal of the Spanish Socialist Workers' Party, Rafael Guerra del Río, of the centrist Radical Republican Party, argued in favour of negotiations between parties regarding the reform of private property through constitutional means. To be an efficient parliamentary majority demanded public and democratic engagement beyond partisanship. Any ideal of property, individual or social, should be enshrined in the Constitution. Individual economic freedoms were not incompatible with a partial reorganization of property rights – if state seizure could be applied following clear and legal procedures which were known beforehand by citizens and were also institutionally protected:

> We are a party of efficacy, and we understand today that the features attributed to the right to property in the Constitutional Draft, even if in compliance with the ideal and the socialist programme, do not fit entirely with the current Spanish reality. We proclaim the need of protection, by the state, of individual and collective property.[9]

The radical centrist MP José Álvarez Buylla severely criticized article 42 of the Constitutional Draft as standing for a less radical conception of property rights, saying that the Constitutional Commission went beyond the revolutionary efforts of the people that gave rise to the democratic republic (DSCCRE, 1 September 1931: 697). To be revolutionary when talking about property rights meant favouring the interests of some individuals over others, violating or diminishing the validity of traditional rights that, in his view, any democratic state should respect and preserve. Álvarez Buylla thought that the role of the revolution was to enact policies of gradualism and practical intelligence. The implementation of social and political measures to prevent violent uprisings and sectarianism, including with regard to private property, was a priority.

Even if he considered that ambitious reform would be harmful to the national economy and difficult to accomplish in a few years, it would also entail a concession to the demands of the lower classes. In the Spanish countryside, especially in the poorest regions, such as Andalusia and Extremadura, the demands for the distribution of property grew over the time span from 1910 to 1931.

The socialist minister of justice Fernando de los Ríos, as expert in public law, was aware of the broad margins of the ordinary laws used to interpret whether the social functions of property rights could be established or not in each particular case (DSCCRE, 3 September 1931: 752). Those margins of interpretation for ordinary legislation by the courts of justice were also a trump card for left-wing parties such as the Spanish Socialist Workers' Party, the Radical Socialist Republican Party, and the Republican Action Party. Ordinary laws, while not necessarily the Constitution itself, could be reformed to allow for the property regime drawn up by the first coalition government. Without the constitutional acknowledgement of restrictions on private property, ordinary laws lacked in any content to be applied by judges. Contrary to this view, the agrarian MP and priest Ricardo Gómez Rojí regarded property rights as inalienable natural rights, almost divine in origin. In his view, in order for private property to exist, it should be stable and organized by its holders without any legal exception (DSCCRE, 4 September 1931: 766).

4.7 Rival Views on the New Regime of Property Rights

Neither the state nor negotiated parliamentary decisions could justify changes in that property regime. If, as the Spanish Socialist Workers' Party defended, the right of property was limited, then the very concept of private property was attacked. That understanding of property rights by the Popular Agrarian Minority and the Basque-Navarre Minority was a source of disagreements between, on the one hand, agrarian traditionalism together with conservatism and, on the other hand, socialists, radical socialists, left-wing Catalan parties, and MPs of the Republican Action Party (DSCCRE, 4 September 1931: 766). Indeed, the agrarian defence of that right entailed a political engagement with a view of natural law opposed to positivist and contemporary European perspectives about fundamental rights.

For the agrarian MP Pedro Sainz Rodríguez, property rights were unprotected by the Constitutional Draft. In a similar vein to Ricardo Gómez Rojí, Pedro Sainz Rodríguez claimed that the Constitution should be close to a 'doctrinal treatise' in which opportunities to define that right in terms acknowledged in other constitutions could be addressed in the future, instead of being resolved immediately (DSCCRE, 8 September 1931: 796). In his view, any new property regime that arose from a governmental preference to implement ordinary laws should be endorsed by opposition parties. In that regard, individual freedoms, as was the case of private property, could not be restricted. To Sainz

Rodríguez, any attempt to change the status of private property went against the political tradition of Spain. If that occurred, owners would not be merely unprotected, but subject to either discretionary or arbitrary measures since conditions allowing state seizure and redress were uncertain.

Among the liberal MPs, Melquíades Álvarez of the Liberal Democratic Republican Party argued against the more ambitious aims of the socialization of property. He admitted that it would be feasible in the future, but by 1931, the full socialization of properties was hardly acceptable to a number of opposition parties. The constitutional example of Weimar strengthened the aim of reforming property rights. However, that new process of European constitutionalism did not imply a socialization of properties in all cases, but only when special circumstances demanded it. Hurried law-making towards a so-called 'progressive' socialization of goods and properties was a drawback. It prevented the Spanish Constitution from properly imitate what other constitutions had already enshrined in accordance with the real risks and advantages of leaving room for private property: "[…] to acknowledge the principle of socialization of property is absolutely, in my view, a blunder".[10]

In that respect, the independent conservative MP Santiago Alba said that when he was minister of finance in 1917, during the Bourbon Restoration, the legal status of property radically changed for farmers. According to the laws approved at that time, day labourers could have access to the property of the lands they cultivated. In his view, the adverse circumstances of Spain made it undesirable to "ask for more sacrifices to property" in a context of general economic decline in Europe and America (DSCCRE, 15 September 1931: 906–907). Any threat against large and mid-sized owners could end in the loss of efficiency of the Spanish economy in the international context, in favour of more productive lands from countries such as France, Belgium or the United Kingdom.

4.8 The Social Function of Property Rights

Mariano Ruiz-Funes, of the Republican Action Party, advocated the constitutional safeguard of private property in any land reform to be passed, as his particular vote to article 42 of the constitution indicated (Gracia Arce 2014: 93). Prosperity and justice required full acknowledgement of property rights in the Constitution. Against that endorsement, Juan Castrillo, of the Progressive Republican Party, admitted that the future of the democratic republic was not totally incompatible with the nationalization of goods and properties. To him, the most relevant aspect that the coalition government should take into account was whether practical matters regarding expropriation would be feasible or not in the next few years (DSCCRE, 6 October 1931: 1431).

For instance, in that same constitutional session, Ricardo Samper of the Radical Republican Party, also a member of the Constitutional Commission, understood that the regime of gradual socialization established in the Constitution should be applied in accordance with the economic and social circumstances

of the country. If they would worsen, the process of socialization should stop. The transformation of property 'against a unitary principle' should be 'elastic', and 'expansive' enough to make it adaptable (DSCCRE, 6 October 1931: 1439).

In contrast, José María Gil Robles, of the conservative Agrarian Popular Minority, refused any sort of state seizure. It was to him a socialist idea contrary to freedom. In his view, private property was an unyielding concept, an inviolable source of richness for the nation. Any reform of the classical idea of private property was understood as in opposition to individual values and freedoms, a threat against what he conceived of as a natural right. To him, the nation could not be considered a stakeholder of property, as it only attained that function in Bolshevik Russia, precisely to deprive individuals of that right: "[4] the essential negation of the principle of private property no other thing means that all the natural sources of wealth belong to the nation and, on its behalf, to the state".[11]

Taking into account the variety of arguments presented by the MPs, it is clear that only the conservative and traditionalist MPs of the Popular Agrarian Minority and the Basque-Navarre Minority refused to accept an expanded model of ownership. In fact, their ideal of property was not adopted in Spain during the nineteenth century. Spanish Constitutions such as those of 1845, 1869, and 1876 granted public authorities the right to carry out seizure under exceptional circumstances. The definition of property rights argued by agrarian and Basque-Navarre MPs was far from a modern idea. That was not the case for liberal parties such as the Progressive Republican Party, the Liberal Democratic Republican Party, and some MPs of the Radical Republican Party. Their concept of property was contemporary in the sense that the lawful enjoyment of private property was considered a right. Against both trends, left-wing members of parliament chose a more ambitious alternative, making public powers responsible for imposing constraints on private property. The idea that unspecified circumstances could justify seizures left broad margins for discretionary decisions by public powers.

4.9 Forced Expropriation: Property under State Control

Leading representatives of the coalition government worked to adapt constraints on private property in the Constitutional Draft that were in line with those that other constitutions in Europe and America had already adopted. Opposition minorities (agrarians, Basque-Navarre traditionalists, and some independent MPs) rejected any reform that could ease expropriation. According to traditionalist MPs, owners had the natural right to enjoy their properties and the state had the duty to protect them. Both agrarians and traditionalists agreed that property rights could be seized only in cases in which reasonable compensations were offered based on expert assessments and as allowed by experts.

Some opposition MPs disregarded the examples of other recent constitutions and tried to persuade the coalition government that social peace could only be

accomplished by attending to the Spanish tradition of the nineteenth-century Constitutions, which were respectful of property rights. Even if that argument was false, the clash between agrarian and traditionalist MPs on the one hand, and left-wing representatives on the other, was portrayed as the age-old fight between tradition and modernity.

In the II National Congress of the Radical Socialist Republican Party, held between 27 and 31 May 1931, the revolutionary branch of the party, led by José Antonio Balbontín, argued that some lands should be expropriated and then distributed among day labourers (Avilés Farré 1985: 73). One of the party leaders, Fernando Valera, promised something similar by identifying farmers with labourers in a meeting on 20 June 1931 in Valencia. He claimed that sovereignty belonged to the people, just as freedom of conscience. In a sentimental discourse, he stressed the right of small farmers to attain properties, to see their work dignified, and to be independent from property misuses of the past (Avilés Farré 1985: 75).

The left-wing lawyer and intellectual Francisco Ayala understood that property rights were guaranteed in the Constitution insofar as parliament needed an absolute majority to authorize state seizure. Ayala identified modern doctrines of economic thought which abandoned classical liberalism to justify expropriation as a pressing need of the state (Ayala 1932: 15). The competence of the courts to decide about the right to compensation in some cases of seizure seemed a doctrine opposed to the liberal values of respect towards the safeguarding of freedoms by public institutions.

Arguing against the wording of article 44 of the Constitutional Draft, the president of the republic Niceto Alcalá-Zamora considered it 'eclectic, doubtful, contradictory' with regard to the definition of property (Alcalá-Zamora 1981: 127–128). It could not be a transaction between the views of rival parties, because it was a contradiction in itself. That article, in his view, did not protect the weakest, but was a threat against the right to property. Issues such as legitimacy and attaining parliamentary quorum darkened the future of the constitutional article (Alcalá-Zamora 1981: 128–129). In that article, the ideas of seizure, state intervention, socialization, and nationalization were equated as if they expressed the same concept.

Contrary to Alcalá-Zamora's concerns, one of the main tasks of the first coalition government relied on a deep transformation of the economic structure of the country through social policies that challenged the very idea of classical individual rights. The Spanish Socialist Workers' Party, the Radical Socialist Republican Party, and the Republican Left of Catalonia were especially concerned with the problems derived from the concentration of property in the hands of large landowners. Article 47 of the Constitution already endorsed, even though not explicitly, a broad programme of agrarian reform, which was never accomplished in practice, to radically transform the structure of property in favour of day labourers without lands and small landowners (Garrido González 1991: 178).

The prominent legal scholar Adolfo Posada welcomed the doctrines of the Austrian scholar Anton Menger concerning private property. According to Posada, the concept of formal and inviolable property should be replaced by new doctrines of private law, closer to socialist trends than to orthodox Marxism. The liberal concept of property was identified as a cause of moral disasters. The French Léon Duguit, who was opposed to Marxism, understood property as having a social function far removed from a strict moral right of ownership but also opposed to any idea connected to class struggle or Marxist theories (Infante 2013: 108–109). Property was an individual good with social aims which could be legally described. Individuals were legally authorized to use it under certain conditions.

4.10 Concluding Remarks

This chapter has underlined that property rights were not generally understood simply as individual rights, unlike the positions defended by the Popular Agrarian Minority and the Basque-Navarre Minority. For the other parties, they were to be defined in a modern sense, in connection with European constitutionalism and attending to the new trends of public law favouring state seizure through compensation, at least as consolidated since the Weimar Constitution of 1919.

The Spanish constitutional debate was the battlefield of opposite meanings of property rights. On the one hand, there was an individualistic concept incompatible with the regulation of property rights by the state, as defended by the Popular Agrarian Minority and the Basque-Navarre Minority. On the other hand, there was a trend in favour of state seizure that in some cases made it advisable to exclude economic redress for owners, as was argued by the Spanish Socialist Workers' Party, the Radical Socialist Republican Party, and the Republican Action Party. Halfway between these stances, some parties such as the Radical Republican Party, the Progressive Republican Party, the Group at the Service of the Republic, and the Liberal Democratic Republican Party stood for individual and collective property rights being compatible if economic compensation for the owners of seized properties was provided.

European debates on property rights brought democratic socialism face-to-face with classical liberalism. That ideological clash explains the transactional solutions adopted in countries such as Germany, Austria, and Czechoslovakia. The Constitution of 1931 included a similar wording to the constitutions of those countries, but it did not resolve the cases of socialization without economic redress that would require a vote of the parliament. The ideological diversity of left-wing parties such as the Spanish Socialist Workers' Party, the Radical Socialist Republican Party, and the Republican Action Party did not hinder their agreement on the redistribution of property rights to achieve social justice and to safeguard a minimum degree of economic equality among citizens.

Accordingly, socialist MPs thought that if landowners were to preserve their own properties in any case, then the working classes would never achieve any

real equality and thus improve their living conditions. For the Spanish Socialist Workers' Party and the Republican Action Party, not addressing the situation would mean breaking an electoral promise, thus undermining their own credibility. These two circumstances, the agreement between left-wing parties and their electoral commitments, were the main reasons for the ambitious state regulation of property rights. It was believed that parliament should decide in some cases about how to implement specific policies dealing with the redistribution of property rights and economic compensation for owners if an ambitious agrarian reform was to be effected.

To agrarian and conservative MPs such as José María Gil Robles, and Antonio Royo Villanova of the Popular Agrarian Minority, and Joaquín Beunza of the Basque-Navarre Minority, changing the regime of property rights was equivalent to reducing the protection of owners against discretionary measures and unleashing a class struggle that would undermine social stability. In the same light, arguments about the stability of the nascent republican regime are also determinant to understanding the actions of the presidential office during the constitutional sessions.

Notes

1 *Regeneracionismo* was a Spanish political and social trend that promoted a deep reform of the nation to overcome its backwardness. It was an ideologically transversal theory, mostly developed by the scholar and politician Joaquín Costa, based on three basic elements: the modernization of the country following the models of the United Kingdom, France, and Germany; educational reforms to encourage basic literacy and science; together with strong criticisms against patronage practices in favour of open political leadership.

2 "La propiedad de toda clase de bienes podrá ser objeto de expropiación forzosa por causa de utilidad social mediante adecuada indemnización a menos que disponga otra cosa una ley aprobada por los votos de la mayoría absoluta de las Cortes. Con los mismos requisitos la propiedad podrá ser socializada" (Spanish Constitution of 1931, article 44).

3 Article 10 of the Constitution of 1876 acknowledged property rights and admitted expropriation through 'justified cause of public usefulness' (Spanish Constitution of 1876, article 10).

4 "El Estado, que reconoce actualmente la propiedad privada en razón directa de la función útil que desempeña el propietario, procederá de un modo gradual a su socialización" (Juliá 2009: 201).

5 "El contenido, los límites y la extensión de este derecho serán fijados por las leyes atendiendo a su función social. No se impondrá la pena de confiscación de bienes" (Preliminary Constitutional Draft of 1931, article 28).

6 Article 10 of the Spanish Constitution of 1845 acknowledged "[a] justified cause of common usefulness" the only legitimate reason to deprive an individual of his right to private property (Spanish Constitution of 1845, article 10).

7 Manuel Martínez Pedroso was not MP in the Constituent Assembly. He was, however, an influential legal scholar of the Spanish Socialist Workers' Party and member of the Constitutional Court (*Tribunal de Garantías Constitucionales*).

8 Nicolás Alcalá was a notary and Agustín Viñuales, a leading economist. They were not elected to parliament in 1931.

9 "Somos un partido de eficacia, y entendemos hoy que las características que se dan al derecho de propiedad en el proyecto de Constitución, si se ajustan al ideal y al programa socialista, no encajan por completo en la actual realidad española. Nosotros proclamamos la necesidad de la protección, por parte del Estado, a la propiedad individual y colectiva" (DSCCRE, 28 August 1931: 680–681).

10 "[…] reconocer el principio de la socialización de la propiedad en absoluto es, a mi juicio, una torpeza" (DSCCRE, 9 September 1931: 823).

11 "[…] la negación esencial del principio de la propiedad privada, no otra cosa significa el decir que todas las fuentes naturales de riqueza pertenecen a la Nación y en su nombre al Estado" (DSCCRE, 6 October 1931: 1441).

3 Legal and Political Controversies around the Conceptualization of Freedom of Conscience (September to November 1931)

The debate about the separation of church and state regarding articles 23–25 of the Constitutional Draft was to a great extent a rhetorical dispute about the meanings of freedom of conscience and popular sovereignty. Spanish representatives used a broad conceptualization of sovereignty to infer the autonomy of religious and civil institutions from the state. The religious question gave rise to a high degree of polarization between parties that diminished the opportunities for bargaining, as also occurred when regional autonomy, women's suffrage, and property rights were discussed. Religious freedom, secularism, and laicism had different when not opposite meanings.

The first part of this chapter outlines the opposition of some Catholic MPs such as Ramón Molina Nieto and Ricardo Gómez Rojí during September and October. The analysis of the religious question in the press is examined. Besides, the chapter clarifies the negative effects of clashing understandings of religious freedom among parliamentarians that the press circulated too. Polysemy around the concepts of secularism and laicism informed rival views of religious freedom. Secularism and laicism had opposite meanings to the left-wing, centrist majoritarian parties, and agrarian together with Basque-Navarre representatives.

The second part compares French and Spanish parliamentary debates about the religious question. The influence of the French *Loi concernant la séparation des Églises et de l'État* of 1905 in the wording of the articles that regulated religious orders and the status of the Catholic Church was decisive. Disagreements between left-wing parties and the alliance of agrarian and Basque-Navarre MPs gave rise to conceptual disputes about the very idea of secularization. Crossed meanings of secularization, religious freedom, and state neutrality arose during the constitutional sessions of October 1931. Affinities of laicism and freedom of conscience faded away in favour of the harsh contrast between clerical and anticlerical views held by political representatives.

3.1 An Outline of the Parliamentary Deliberations about the Religious Question

Regarding the deliberations between September and October, Ricardo Gómez Rojí, Ramón Molina Nieto, and Santiago Guallar spoke on behalf of the Popular

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Agrarian Minority, as the Basque-Navarre representatives Antonio Pildáin and Joaquín Beunza also did. In addition, independent MPs such as Jerónimo García Gallego and Lauro Fernández González were especially active. Basilio Álvarez Rodríguez participated in the debate on behalf of the Radical Republican Party, whereas the Radical Socialist Republican Party member Luis López Doriga spoke independently and not solely as a radical socialist MP (Álvarez Tardío and Villa García 2011: 84–85).[1]

The most relevant speeches of these MPs about the religious question can be divided into two moments: a first phase, when the entire Constitutional Draft was debated (10 and 11 September 1931); and a second phase, when MPs deliberated over specific articles on the relationship between the church and state (from 8 to 14 October 1931). That first phase provoked a high degree of polarization worsened during the second phase.

During the constitutional sessions of September and October, the Popular Agrarian Minority acted as an eclectic group in which many of its members adhered to liberal Catholic monarchism and were mainly concerned with the position of the Catholic Church, the full protection of property rights, and farmers' interests in general. Alongside this group, the priest Ángel Herrera Oria founded in 1931 a similar party on the basis of Catholic principles: the National Action Party (Carr 1973: 75). That party was in practice part of the Popular Agrarian Minority, as the two worked as a single group in the Constituent Assembly.

The agrarian aims were to diminish the influence of the state in education and to avoid harmful regulatory measures against religious orders. A priority was to maintain the public budget of the Catholic Church. For example, the agrarian conservatives Ricardo Gómez Rojí and Ramón Molina Nieto unsuccessfully sought to include an additional article in the Constitution acknowledging the rights of the clergy (Álvarez Tardío and Villa García 2011: 85). The agenda of the Popular Agrarian Minority regarding the religious question went unaccomplished. As an immediate consequence, Catholic MPs had pushed for a constitutional reform since October and threatened the coalition government that they would abandon parliament. They believed that the Catholic Church was being persecuted by left-wing parties and that constitutional articles 26 and 27 were intolerable because they altered social peace.

The electoral programmes of the various political parties forecasted their strategies about the so-called religious question. In the case of the Radical Socialist Republican Party, one of the sections of its political programme thoroughly detailed an ideal of secularization based on a state independent of Catholic institutions, the removal of the budget for the clergy, common laws to regulate the church, and seizure of the goods of the Catholic Church, together with ceasing the practice of civil servants taking religious vows upon entering office (Artola [1974] 1991b: 330).

Understanding the electoral goals of the anarchist and radical socialist movements is vital to understanding the decisions made by the coalition government. These groups were highly mobilized against the Catholic Church and

provoked constant disturbances, such as those in May 1931 when some convents and churches were burnt in different cities of Spain including Madrid, Málaga, Valencia, and Seville, among others. The anticlerical bias of the anarchists and radical socialists weighed on government, whose left-wing members were reluctant to contravene their electoral promises not to use force against popular demands and to promote an ambitious secularization of the state (de la Cueva and Montero 2009: 30).

In this context of social mobilization, Catholicism also functioned as a cohesive element for monarchists, accidentalists (who were in favour of any system of government that Spain would adopt as long as it achieved social, political, and economic stability), and Carlists of the right-wing spectrum, after being divided since the fall of the monarchy (Barrios Rozúa 1999: 184). In the case of the National Action Party, its leaders presented a political programme built on five principles: recognizing Catholicism as the creed professed by the majority of Spaniards and the right of the Catholic Church to be internally regulated by its own laws; confirming the legality of any religious order in equal regime; promoting freedom of teaching for any organization according to its own ends; preserving the public budget of the Catholic Church; and establishing a concordat between church and state in which reciprocal transactions could be made (Artola [1974] 1991b: 380–381).

3.2 The Religious Question in the Press

Regarding the press, the left-wing republican newspaper *El Heraldo de Madrid* described how the proposal of a public law corporation had been defeated in a summary article about the previous session held on 8 October, entitled 'The best service to the republic'. The argumentation of Fernando de los Ríos was decisive in dismissing Enrique Ramos' arguments (*El Heraldo de Madrid*, 9 October 1931: 1). He stressed the ambiguity of the public law corporation solution. Through an accurate conceptual depiction in a long speech, the minister of justice expressed the lack of either legal or conceptual precedents in the Spanish tradition. In a brilliant intervention, he defeated Ramos' amendment by defining the public law corporation solution as inappropriate to the social features of the country and irrational in legal terms (DSCCRE, 8 October 1931: 1525).

In the reformist newspapers, *El Imparcial* pleaded for an overall agreement to gradually transform the Catholic Church. Supporting the republican democracy entailed a revision of the tenets that had characterized the early steps of the recent republican democracy. In the article 'The separation of church and state', the struggle against sectarianism was identified as a priority. In this light, narrow views on the religious question exclusively based on doctrinal and non-liberal principles of the past were a fatal mistake (*El Imparcial*, 8 October 1931: 1).

A few days later, the conservative and monarchic newspaper *La Época* opened its front page with a comment titled 'The constitutional revision', which argued that there was no egalitarian code for all Spaniards as a consequence of the restrictions imposed upon religious orders. The idea of equality appeared just

very briefly, as something that did not refer merely to individuals, but to public and private entities in their relationships to the state as well. The stances of Niceto Alcalá-Zamora and Miguel Maura as MPs of the Progressive Republican Party emphasized how liberal ideas were a necessary element of a balanced Constitution for all Spaniards (*La Época*, 16 October 1931: 1). Their liberalism corresponded, essentially, to the tradition of political liberalism.

In that wise, the attitude of MP Jerónimo Bugeda of the Spanish Socialist Workers' Party was remarkable; his speeches favoured an agreement on the religious question and aimed to enhance the freedom to profess the Catholic religion or any other belief. However, this attitude did not match with his profile in the media, which was much more belligerent against the role of the Catholic Church in the social and political life of the country (*La Voz*, 9 October 1931: 2).

In addition to these concerns, teaching was part of the so-called religious question. In the article 'Catholic doctrine and republican doctrine', *El Sol* briefly illustrated the most contentious issue that was threatening the future of primary and secondary education. A rough reductionism about the role of Catholic institutions in schools equated them with the destruction of the foundational principles of the republican democracy (*El Sol*, 10 September 1931: 1).

The speaker of parliament, Julián Besteiro of the Spanish Socialist Workers' Party, believed that solutions to religious conflicts of any sort were a matter of practical sense. By planning and passing a public budget, the demands of the Catholic Church could be satisfied (Saborit 1974: 160). That issue, rather than any other decision already made, seemed to Besteiro the key to understanding the passionate refusal of Catholic MPs to accept the legal status of the Catholic Church in the context of a secular state. Yet, the ideological diversity among the members of the Spanish Socialist Workers' Party produced a wide range of opinions about the religious question. Incorporating a wide range of views from a moderate branch in favour of secularism to another branch with an anticlerical bias in line with radical socialism, the party eventually aligned itself with the alternative of public denunciation of the social influence of the Catholic Church.

With the aim of summarizing the stances of parliamentary groups in the Constituent Assembly regarding the status of the Catholic religion in the Constitution, it is convenient to point out the four alternative doctrines that were discussed. The first option was represented by the Radical Socialist Republican Party and the Republican Left of Catalonia. To them, the division between church and state meant subordinating religious orders to state measures in order to build a completely secular state.[2] The Spanish Socialist Workers' Party and the Republican Action Party reluctantly endorsed that plan, even though both assumed it as their own. The second alternative was expressed by dissident members of both parties: to secularize the state by enshrining the status of public law corporation for the Catholic Church, in a similar sense to the Weimar Constitution of 1919 and as defended by Enrique Ramos of the Republican Action Party. A third option was developed by the Progressive Republican Party, the Liberal Democratic Republican Party, Antonio Royo Villanova of the

Popular Agrarian Minority, and some independent MPs such as Ángel Ossorio y Gallardo. They favoured secularizing the state by safeguarding freedom of worship and Catholic schools. That sketched project entailed accepting broad reforms to diminish the traditional power of the Catholic religion in Spain. The fourth and last alternative was supported by a majority of the MPs of the Popular Agrarian Minority and all of the MPs of the Basque-Navarre Minority. They sought either to maintain the concordat with the Holy See signed in 1851 or to enact a new one in which the Church would keep all of its former privileges in the public sphere.

In the course of the arguments that resulted from each of these alternatives, the concepts of secularism, laicism, and freedom of conscience were redefined accordingly. As a result of the rhetorical moves associated with these arguments, these three concepts often presented incompatible, sometimes very loose ideological demands. On a few occasions, instead, they acquired sophisticated meanings that made it difficult to clarify to which extent the ideas of secularism, laicism, and freedom of conscience could contradict each other.

3.3 A Parliamentary Dispute about Secularism and Laicism

Controversies around the so-called religious question arose from 8 to 14 October 1931. Some of the issues disputed in the Constituent Assembly were: How would the religious autonomy of the Catholic Church be compatible with a secular state? To what extent were restrictions on religious orders justified? Should religious institutions be banned from education? This is the context within which the idea of secularization was contested; for conservative and traditionalist MPs, the Catholic Church should maintain its competences as defined in the concordat with the Holy See of 1851 and the Constitution of 1876; for moderate right-wing parliamentarians, the secularization of the state should be compatible with an autonomous Catholic Church with competences in education; for left-wing parties, public powers should be strengthened and the influence of religious orders in society and education either limited or withdrawn.

A majority of Spanish MPs stressed their secularism as a break from the former denominationalism, and not in terms of freedom of conscience. In that light, they emphasized the individual right to practice any religion (López Castillo 1998: 222). The confusion between secularism and social secularization can be clarified by demonstrating the independence of both ideas. If secularism represented a political process to split the state and religion into two independent spheres, then social secularization corresponded to a process of decreasing the influence of the Catholic Church in both the public and the private life of individuals. Secularism and social secularization do not necessarily correspond with each other (Maclure and Taylor 2011: 15–16). More precisely, the idea of secularism refers to an independent civil authority that respects religious authorities. Constitutional secularism imposes the neutrality of the state, discarding the idea of a denominational state. In contemporary terms, democratic

states require that issues of the afterlife belong to the private life of individuals: state and religion make up two distinct spheres of action (Vázquez Alonso 2012: 334).

Nevertheless, in the 1920s and early 1930s, the anticlerical attitude of members of parties such as the Radical Socialist Republican Party, the Spanish Socialist Workers' Party, the Republican Left of Catalonia, and some MPs of the Republican Action Party meant opposition to the political power of the Catholic Church. It was during that decade that the term secular (*laico*) became widely used (de la Cueva and Montero 2013: 13). During the constitutional sessions, a majority of left-wing MPs understood both the processes of secularism and social secularization as if they were the same: a shared political effort to transform the prevailing political beliefs of Spanish citizens. Building a new national conscience based on loyalty to the principles of a democratic republic above any particular faith seemed a feasible goal to them. The most exclusive meaning of secularism (*laicismo*) acquired a strong ideological sense, being equated with the success of the democratic republican process. MPs often regarded the coexistence of secular teaching and the private schools of religious orders as harmful to the consolidation of the republican democracy in the future. They thus believed that full secular teaching should be implemented as soon as possible (Ostolaza 2012: 214).

Indeed, the radicalization of clerical groups frustrated the goal of the coalition government to democratize institutions, offering a trump card to the rivals of the republican democracy (Gil Pecharromán 1989: 114). The clash between clerical and anticlerical parties, even if vital to understanding the decisions made in the Constituent Assembly, is not informative enough about the nature of the plurality in parliament. In the middle ground between these two extremes, a series of proposals to defend the horizon of competences between church and state was overshadowed in the course of the deliberations.

Conservative representatives reacted against this trend of secularism in the Constitutional Draft. José María Gil Robles, leader of the Popular Agrarian Minority, spoke of being concerned about article 3 of the Constitutional Draft, since it established that 'there is no state religion' (Juliá 2009: 196). In his view, religious faith was the mainstay of societies and no government could limit the freedom of the Catholic Church and religious orders without attacking basic freedoms (DSCCRE, 8 October 1931: 1528).

The agrarian MP José Martínez de Velasco also expressed a similar concern, stating that laicism was justified in countries where religious diversity was real, but not in Spain, due to its Catholic majority (DSCCRE, 8 October 1931: 1534). Religious freedom in the modern sense safeguards religious beliefs and worship in both the public and the private spheres, including the right to spreading that faith (Maclure and Taylor 2011: 65). By contrast, agrarian MPs' representatives portrayed religious freedom to make it equivalent to broad freedoms for the Catholic Church regarding worship and education, as it was the majoritarian faith of Spaniards. That stance favoured prerogatives of the past and evaded a

more detailed discussion about the meaning of religious freedom in modern constitutional states.

Despite their historical differences, liberal and conservative MPs of the Popular Agrarian Minority and the Basque-Navarre Minority supported that restrained concept of religious freedom, but from a stance of privileging the Catholic Church. The historical circumstances of the republican period and, more specifically, the decisions made by the provisional government, led instead to a Constitution where that right was restricted. As a token of this tendency, article 26 dissolved the Jesuit religious order. In that regard, article 27 established that any public manifestation of worship should be authorized by the public powers.

Running in parallel to the constitutional debate, newspapers such as *Crisol* echoed the belief that the resignation of Cardinal Pedro Segura was the result of Vatican pressure. The article titled 'The religious question' explained that the reasons behind Segura's resignation were to be found in the bargaining between the first coalition government and the Vatican (*Crisol*, 1 October 1931: 1). Four days later, the same newspaper detailed its position about the religious question, arguing in favour of the separation of church and state, the rejection of an official religion of state, full respect towards freedom of conscience and religious liberty, freedom of worship with some restrictions to preserve the public order, the expulsion of Jesuits and other religious orders; and, likewise, forbidding any coercion of one's own religious beliefs, acknowledging the Catholic Church as a public law corporation, and granting an annual budget for religious orders administrated by the state (*Crisol*, 5 October 1931: 1).

The response to traditional liberal and conservative MPs by Manual Azaña, the leader of the Republican Action Party, reviewed two contested ideas – laicism and radicalism – in a positive light. His speech on 13 October tacitly announced the left-wing alliance of democratic socialism, centre radicalism, and left-wing radicalism. It was already clear that the parliamentary majorities built around the Spanish Socialist Workers' Party, the Radical Republican Party, and the Radical Socialist Republican Party would ease the passing of constitutional articles addressing the religious question, as these parties agreed. Manuel Azaña defined the Republican Action Party as a party endorsing 'laicism' and 'constructive radicalism' (DSCCRE, 13 October 1931: 1672).

With regard to the religious question, it is relevant to mention the general agreements between other liberal regimes and the Catholic Church in Europe. They were put into practice for the first time in the negotiations undertaken by the Vatican during the pontificate of Leo XIII in the last decade of the nineteenth century. The politics of *ralliement* and public commitment to all kinds of political regimes in Europe was continued by Pope Pius XI during his reign (1922–1939). That is one of the aspects that explains the public acceptance of the Spanish Second Republic by high representatives of the Catholic Church in 1931 (de la Cueva 2014: 101).

Recent historiographical contributions have interpreted the reactions of the Catholic Church to the democratic republic, distinguishing three trends: possibilists, antiliberals, and traditionalists (Salomón Chéliz 2012: 233). Accepting

this view, the possibilist trend should be identified with the official stance of the Vatican during the first months of the republican government. Laicism and secularism, in this sense, were compatible with the political bargaining between the Vatican and the Spanish coalition government. This strategy of the gradual secularization of institutions is to be contrasted with the anticlerical or clerical viewpoints of social and parliamentary groups.

Some keywords and concepts used by the MPs during the constitutional sessions about the religious question were: secularization, autonomy, freedom, and state. Other concepts such as tolerance and moral conscience were also commonly referred to. All of them shaped a political vocabulary characterized by including a variety of contested political meanings from political groups.

The term that literally means secularization in Spanish (*secularización*)[3] describes both the process and the end result that left-wing and centrist parties desired for the new democratic state. It was mentioned on only a few occasions and almost always in the deliberations on the managing of cemeteries by public institutions.[4] Those occasions in which the term *secularización* was recurrent are the speeches of 9 September (Melquíades Álvarez, of the Liberal Democratic Republican Party), 8 October (Fernando de los Ríos, of the Spanish Socialist Workers' Party), and 13 October (Santiago Guallar, of the National Action Party).

From a conceptual perspective, the Constituent Assembly of 1931 is a case study of how MPs understood secularization in political and legal terms, far removed from references to economic processes or technological advances in regulated market economies. Industrial and economic challenges were mostly irrelevant to and absent from the constitutional sessions about the so-called religious question. Social and political arguments prevailed in the Constituent Assembly. There, three main alternatives were presented: a traditional, antiliberal denominational state that privileged the Catholic Church; moderate institutional reforms to strengthen public powers against the influence of the Catholic Church, but leaving room for the legal autonomy of religious orders; and state control over religious activities. A model of softened secularism was, at first glance, one among other more radical alternatives available to the MPs. The choice of a model of extreme laicism was found instead in the prevailing political leaning towards left-wing secularism as the Radical Socialist Republican Party understood it.

3.4 The Influence of the French *Loi concernant la séparation des Églises et de l'État*

Representatives of both the Radical Republican Party and the Radical Socialist Republican Party, together with some members of Catalan and Galician nationalist minority groups, partially adapted the French legal experience to the text of the Spanish constitution, at least with regard to the religious question. The French *Loi concernant la séparation des Églises et de l'État* of 1905 seemed the main contemporary reference. Both radical groups refused to accept the aims of the centre-right parties in the coalition government. They considered the

strategy of ambitious institutional reform, championed by the left-wing parties, as too cumbersome for the stability of the Spanish democracy. Before the parliamentary discussion on the religious question took place, Enrique Ramos, of the Republican Action Party, was against what he regarded as the anti-Catholic orientation of articles 24 and 25 in the Constitutional Draft (articles 26 and 27 in the Constitution). Nevertheless, the pressure of trade unions and republican newspapers led the Republican Action Party and the Spanish Socialist Workers' Party to defend less balanced measures against the Catholic Church. Socialists, Republican Action's MPs, centre and left-wing radicals together with left-wing nationalist parties, all favoured the expropriation of Jesuit properties and the proscription of the Jesuits, the banning of religious orders from education, and the removal of public funding for the Catholic Church.

Secularism (distinguished as *laïcisme* and *laïcité* in French or *laicismo* and *laicidad* in Spanish) expressed two opposite ideas that originated in the internal debates of liberal Catholics in France after the French Revolution. More precisely, the conceptual roots of secularism are to be found in the crisis of the modern idea of tolerance. Rationalistic philosophies of the end of the eighteenth century were revived when discussing the idea of religious freedom and state neutrality: an attempt to make the condemnation of secularism in the Constituent Assembly straightforward (Fernández-Miranda 1978: 65).[5]

Some leaders of liberal Catholicism in France had argued in favour of the separation of church and state since at least the nineteenth century. The political programme sketched in *L'Avenir de Lamennais* (1830) already reflected the longing for 'a free Church in a free state'. It enumerated the social and political changes favourable to a revision of the status of the Catholic Church. Some speeches, such as that by Charles de Montalembert in Malines in 1863, outlined the same demand (Torres Gutiérrez 2014: 197). In the first decade of the twentieth century, the terms of the debate about the separation of church and state in France during 1904 and 1905 are relevant to understanding the ideological clash later produced in interwar European constitutionalism. The congresses that gathered together French radicals and radical socialists in 1901 ended in an agreement between the Catholic Church and the state that unleashed a conflict with the Vatican when the existing concordat with the Holy See was revoked (Torres Gutiérrez 2014: 197–198). The prime minister between June 1902 and January 1905, the radical socialist Émile Combes, aimed to set limits to the properties that belonged to the Catholic Church in order to transfer part of them to the state. In that sense, in 1931, the Radical Socialist Republican Party in Spain revived criticisms and demands against the Catholic Church similar to those of French social radicalism during the first decade of the twentieth century.

The French *Loi concernant la séparation des Églises et de l'État* marked the start of a new political phase. Article 1 of that law established freedom of conscience and freedom of worship. Article 3 of the Spanish Constitution of 1931 enshrined the religious independence of the state, stating that "the Spanish state has no official religion", and article 26 of that same constitutional text established that

freedom of conscience and worship applied to any religion in Spanish territory. The difference between the French law and the Spanish Constitution of 1931 lies in a subtle idea of public order, more specific than the vague idea of public morality in the Spanish case. However, freedom of conscience was acknowledged in both the French law and the Constitution of 1931 in the full secular sense, in a very precise way: freedom of conscience was equivalent to the freedom to profess any religious belief and practice its worship.

Article 2 of the *Loi concernant la séparation des Églises et de l'État* established that the French Republic would not grant any economic support or legal status to any religious faiths, whereas the third paragraph of article 27 of the Spanish Constitution of 1931 established that "a special law shall regulate the total extinguishment, within a maximum period of two years, of the budget of the clergy". In articles 3 and 4 of that law, the properties and goods of religious associations and the state were singularly regulated through inventories. Nevertheless, that law safeguarded the existence of religious orders, with the exception of the Jesuit order.

During the ruling period of the socialist prime minister of the French Third Republic, Aristide Briand (1909–1929), the left-wing trends of Marxist socialism and radical socialism reshaped the map of political ideologies and established their own priorities in French politics. Briand believed that a fair process of secularization should enable the coexistence of the freedoms of church and state as two independent spheres (Bellon 2005: 63). Antonio Royo Villanova, of the Popular Agrarian Minority, repeated that argument for the independent autonomy of these two spheres of life. He refused to consider a situation where the Catholic Church was economically and institutionally dependent on the state. In that sense, Antonio Royo Villanova highlighted some worthy aspects of the opinions of Manuel Azaña, Fernando de los Ríos, and Álvaro de Albornoz about the religious question, only to criticize them later on: "[...] you looked for means to avoid the church's separation from the state, to make the state intervene in the church".[6]

3.5 Reinterpreting French Assembly's Debates of the Nineteenth Century

French parliamentary debates of the nineteenth century were reinterpreted at some moments of the constitutional debate. According to the agrarian MP José María Gil Robles, prominent representatives of the French nation considered that anticlericalism was not an item to export to other countries (DSCCRE, 8 October 1931: 1530–1531). The religious question was discussed in terms that to some extent were similar to those of half a century earlier during the French Third Republic, exemplified in the speeches of León Gambetta in 1877. The state secularism normally ascribed to the model of the Constitution of 1931 can be considered an adapted version of the French secularism established in the French law of 1905 (Souto Paz 2001: 680; Valero Heredia 2008: 127).

Against that traditionalist reaction, the radical socialist MP Álvaro de Albornoz praised Pierre Waldeck-Rousseau's support of a law of associations that left room for religious orders aiming to address Catholic demands and provide stability to the French political system. But instead of adopting that strategy, Álvaro de Albornoz aimed to distinguish regular associations from religious orders in the text of the Spanish constitution (DSCCRE, 9 October 1931: 1566). Responding to that argument, the independent MP Jerónimo García Gallego warned him not to imitate the French example. In his view, Léon Duguit advised that those laws that restricted the freedom of religious orders should be abolished (DSCCRE, 9 October 1931: 1572).

For his part, Niceto Alcalá-Zamora of the Progressive Republican Party resumed his conversation with the liberal politician of the Bourbon Restoration, Segismundo Moret. According to Alcalá-Zamora, both the radicals and the radical socialists in France advised Moret to guarantee the independence of the public powers without renouncing the concordat with the Holy See (DSCCRE, 10 October 1931: 1610). As Alcalá-Zamora's fellow MP Juan Castrillo said, most members of the Constitutional Commission belonged to the Spanish Socialist Workers' Party, the Radical Socialist Republican Party, and Republican Left of Catalonia, thus producing a stable left-wing majority to write articles of the Constitutional Draft, including those about the religious question (Castrillo Santos 1933: 14). He firmly believed that 'neutrality' should be distinguished from aggressive 'antiliberal' measures regarding secularism (Castrillo Santos 1933: 27).

In an interview to *ABC* titled 'The constitutional moment of Spain according to Alcalá-Zamora', the leader of the Progressive Republican Party declared that the Radical Socialist Republican Party had dragged the Spanish Socialist Workers' Party down towards extreme policies, eroding the chances of centrist and moderate policies by radicalizing the opposition of right-wing political parties. He thought of radical socialists as more anticlerical in their policies than French radicals regarding the religious question. Full tolerance and religious peace were to him unachievable if the antireligious measures promoted by radical socialism had to prevail over balanced solutions (*ABC*, 23 October 1931: 18).

Against that argument, the socialist MP Andrés Ovejero responded to opposition MPs' comments about the freedom enjoyed in the French Third Republic by religious orders in the colonies, by saying that some of them carried out persecution measures, as had also occurred in Spain, exemplified by the execution of the Filipino nationalist activist José Rizal in the Philippines in 1896 (DSCCRE, 10 October 1931: 1625). Three days later, during the next constitutional session, the socialist MP Luis Jiménez de Asúa proposed that defining a *modus vivendi* between the church and state should be delayed a few years, as had happened in France in 1924, 19 years after the church and state were separated through the *Loi concernant la séparation des Églises et de l'État* (DSCCRE, 13 October 1931: 1664).

The French political experience of the early twentieth century was strongly contested. Right-wing and left-wing parties reinterpreted the separation of church and state in France to either endorse soft measures to regulate religious orders or to ban them from education and public worship. Both ideals of secularization were incompatible with each other. For moderate right-wing parties, a secularized state should permit a broad legal acknowledgement of religious orders and their activities, whereas the Radical Republican Party and left-wing political parties in the first coalition government regarded that alternative as a potential danger to a true secular state.

3.6 Deliberating on Freedom of Conscience[7]

The deliberations around freedom of conscience can be analysed by examining the meanings that political parties gave to this idea and how it was interpreted in the Constitution. The debate on freedom of conscience took place between September and October 1931. The most relevant dates when the articles about the religious question were discussed are 9 September and 13 October 1931, though it is necessary to point out that a number of relevant speeches were also delivered in other constitutional sessions in October. That is the reason why there are several allusions to the political principle of freedom of conscience between 8 and 20 October 1931.

The vindication of freedom as an absolute political concept was a common rhetorical device in parliamentary regimes from the nineteenth century onwards. In that regard, the Spanish parliament was not an exception. Political parties normally appealed to freedom as the source and inspiration of their doctrines. The new freedoms being acknowledged in constitutions strengthened a democratic language very often positively associated with a vocabulary of social and individual freedoms. Left-wing groups referred to monarchists and early fascists as the enemies of freedom in order to distance themselves from them. Guarantees of those freedoms were seen as indispensable, and it was believed that the Constitution should defend them absolutely and comprehensively (García Santos 1980: 415–417).

Two distinct factions had formed since the beginning of September. Both the republican authorities and Catholic supporters understood the religious question as a cultural battlefield, extending beyond institutional terms (López Villaverde 2019: 68). On the one hand, the right-wing groups of the Popular Agrarian Minority and the Basque-Navarre Minority took a position, with slight differences, in favour of enshrining the free exercise of the Catholic faith in the Constitution. To them, this was a fundamental principle guaranteeing the freedom of conscience to every citizen in the country. These tenets should be considered irrespective of any religious affiliation, though the Popular Agrarian Minority exclusively battled for the interests of the Catholic faith. On the other hand, left-wing parties – the Radical Republican Party, the Republican Action Party, the Spanish Socialist Workers' Party, the Radical Socialist Republican

Party, the Republican Left of Catalonia, and the Autonomous Galician Republican Organization – defended ideas about the secularism of public institutions that were incompatible with the right-wing views.

In order to illustrate these dissimilar political stances, a series of parliamentary speeches are examined: Ricardo Gómez Rojí (Popular Agrarian Minority), Melquíades Álvarez (Liberal Democratic Republican Party), Juan Botella (Radical Socialist Republican Party), Cirilo del Río (Progressive Republican Party), Jerónimo García Gallego (independent Catholic), Humbert Torres i Barberá (Republican Left of Catalonia), Manuel Azaña (Republican Action Party), Amós Sabrás (Spanish Socialist Workers' Party), and Antoni Maria Sbert (Republican Left of Catalonia).

This analysis sheds light on these two perspectives, insofar as they entailed two opposed views about how freedom of conscience and secularism should be enshrined in the Constitution. That dispute resulted in the model of a secular democratic state being permanently contested. The evidence examined here highlights the ideological uses of the idea of freedom of conscience, aiming to answer why the topic of the separation of church and state inspired such a rich argumentation, even if it was also partisan, about the meanings of religious freedom.

The disputes over articles 24 and 25 of the Constitutional Draft ended with a threat to abandon parliament by the Popular Agrarian Minority and the Basque-Navarre Minority on 13 October 1931. As a result, the president of the republic, Niceto Alcalá-Zamora, and the minister of the interior (*ministro de gobernación*) Miguel Maura thought that such a context of intransigence would force them to resign, which they finally did (Juliá 2009: 64). The overall terms upon which freedom of conscience was to be established were outlined in the first paragraph of article 25 of the Constitutional Draft (article 27 of the Constitution of 1931). That article was finally passed with some minor amendments, stating that "freedom of conscience and the right to freely profess and exercise any religion are guaranteed in the Spanish territory, with the exception of the due respect for the demands of public morality".

Regarding the arguments over the religious question, the MPs were roughly divided into two rival interpretations: on the one hand, the defence of freedom of conscience as meaning the free exercise of the Catholic faith without governmental obstacles; on the other hand, the guarantee of freedom of conscience on the basis of secular public institutions, excluding religious orders from the educational system. The discussion of this basic right by constituent MPs was connected to the organization of the church and state as two autonomous bodies.

The first speech about freedom of conscience on 4 September 1931 was delivered by the agrarian MP and Catholic priest Ricardo Gómez Rojí. He expressed this principle by opposing two understandings which do not correspond to the modern legal concept of freedom of conscience. Gómez Rojí reduced that principle to a sort of guideline for personal behaviour, following the sacred moral principles of Christianity. For him, free will was incompatible with choosing

beliefs that had not been previously tested by the Catholic Church as true or false (DSCCRE, 4 September 1931: 769).

The priest Gómez Rojí did not explain his argument in detail. He stated that freedom of conscience should be understood in a religious sense that excluded other civil conceptions. His idea of freedom of conscience made it incompatible with freedom of opinion, even though freedom of opinion is closely linked to the principle of intellectual freedom. From a strictly ideological perspective, Gómez Rojí's stance explained the defence of the principle of religious freedom of conscience as opposed to free speech. Both the Popular Agrarian Minority and the Basque-Navarre Minority exemplified a flaw in the modernization of Spain, that is to say, the survival of traditional political and spiritual positions already overcome in other European countries (Tomás Villarroya 1981a: 125).

The reason for postponing the debate until 8 October, instead of holding it on 29 September as originally intended, was the coalition government's fear of provoking a heated conflict with the opposition parties. Some MPs, such as the speaker (*presidente*) of parliament Julián Besteiro, of the Spanish Socialist Workers' Party, thought that such a conflict could entail additional problems for passing other constitutional articles. MPs of the Popular Agrarian Minority and the Basque-Navarre Minority took advantage of that situation to publicly refute the Constitutional Draft. However, Melquíades Álvarez and his minority Liberal Democratic Republican Party were favourable to a clear division of church and state spheres within civil society: "I have said that it was necessary, in the first place, to replace that mean religious tolerance with freedom of conscience".[8]

Freedom of conscience, according to Melquíades Álvarez, is a principle that goes beyond religious tolerance. Since tolerance means to admit the coexistence of different beliefs in society, freedom of conscience entailed instead the effective acknowledgement of such beliefs as a consubstantial principle of the state. Unlike Ricardo Gómez Rojí, Melquíades Álvarez did not believe that freedom of conscience should be subordinated to religious freedom. On the contrary, it was a feature already established in modern constitutions that enshrined the right of citizens to guide their own behaviour in accordance with their own beliefs, which were not necessarily derived from religious faith. Through a conciliatory stance in the same thread of the debate, Álvarez admitted that he never was in favour of the separation of church and state. He rather believed that it was not a hindrance to accept a progressive secularization of social, economic, and political institutions in the new republican order. It was necessary to do so because popular opinion demanded it (DSCCRE, 9 September: 818).

Melquíades Álvarez's commitment was not incompatible with his reservations towards a sudden process of separation of church and state. In that same speech, he advised against the expected dangers of excessively reducing the power of the Catholic Church. The alternative of acknowledging it as a public law corporation meant jeopardizing the state: some clerical groups would regard it as an attack against religious freedom. Álvarez himself thought of his

speech a call for realism (DSCCRE, 9 September: 819). The efforts of his Liberal Democratic Republican Party, with only two seats, were focused on bargaining for a progressive secularization compatible with freedom of worship and Catholic schools. In order to accomplish this, religious orders should accept a minimum degree of state control through regular laws (de la Cueva and Montero 2009: 33).[9] Instead, Félix Gordón Ordás, of the Radical Socialist Republican Party, feared that in the future several public law corporations – if the Catholic Church was to become one – would incessantly increase their autonomy and eventually form independent organizations disputing the sovereignty of the state (DSCCRE, 22 September: 1050).

After Álvarez's speech, one of the leading MPs of the Radical Socialist Republican Party, Juan Botella, took part in the constitutional debate. As a member of the Constitutional Commission, his defence of the Constitutional Draft was aimed at backing the role of radical socialism in the coalition government. He believed that the Constitution should safeguard freedom of conscience and freedom of worship, so that the constitutional text would not lead to religious persecution (DSCCRE, 9 September: 827). Freedom of conscience, as presented by Botella, was equated with religious freedom to any faith with a representative number of followers, but on terms that were far beyond those defended by Gómez Rojí and Álvarez.

A decree about freedom of conscience published by government three months before the beginning of the constitutional debate, in May 1931, made the teaching of religion optional. Groups close to the Catholic Church started to mobilize in opposition. Some of them, as in the case of the *jaimista* traditional movement (Carlism),[10] were in favour of a violent uprising against the republican regime (Álvarez Tardío 2002: 114). The hasty publishing of the decree by the provisional government made it harder overall to bargain with pro-Catholic groups.[11]

3.7 Laicism and Freedom of Conscience

On 13 October, Manuel Azaña, of the Republican Action Party, took a stance in favour of freedom of conscience, using terms which seemed related to religious freedom. The leader of the Republican Action Party made the defence of religious freedom incompatible with the survival of the democratic republic: "We have, on the one hand, the obligation to respect freedom of conscience, naturally, without excepting the Christian freedom of conscience; but we have also, on the other hand, the duty to keep safe the republic and the state".[12]

Just prior to Manuel Azaña's speech that same day, Joaquín Beunza of the Basque-Navarre Minority displayed a moderate attitude in his speech. He justified the reasons to respect the conscience of any citizen to tolerate adverse beliefs, in a sense that exceeded the meaning of freedom of conscience in religious terms (DSCCRE, 13 October 1931: 1649). The Basque-Navarre MP Antonio Pildáin also responded to the criticisms made by the radical centrist José López Varela and the radical socialist Eduardo Ortega y Gasset. They claimed that the

Basque-Navarre Minority considered the freedom of conscience debate as the last resource to maintain the constitutional privileges of the Catholic Church. The answer by Pildáin was to identify freedom of conscience and religious freedom in line with Beunza's speech, without imposing any dogma on other citizens (DSCCRE, 13 October 1931: 1707).

On that day, José María Gil Robles, of the Popular Agrarian Minority, also defended freedom of conscience as the principle closest to liberalism (DSCCRE, 13 October 1931: 1712). His direct opposition to the capacity of the state to regulate religious matters reflected the distrust of right-wing minorities against broad state powers in public life. It also denoted his conception of negative liberal freedoms, without conceptualizing them as such.

On 20 October, Amós Sabrás, of the Spanish Socialist Workers' Party, voiced his support of freedom of conscience in his defence of free teaching as opposed to the influence of the Catholic Church in education (DSCCRE, 20 October: 1819). Nevertheless, talking about freedom of conscience in the legal domain entailed a high degree of polysemy. If freedom of conscience meant freedom to think about religious beliefs, there was a lack of legal sense in that expression. If freedoms are always exercises against the external limits to our actions, then they cannot be manifested in our conscience but only in our behaviour.

Antoni Maria Sbert, of the Republican Left of Catalonia, was more radical in his demands. In his view, freedom of conscience was opposed to freedom of teaching: "It is necessary to state that the principle of freedom of teaching is for us incompatible with the principle of freedom of conscience".[13] The recurrent discussion about the concept of freedom of conscience meant either religious freedom in the schools in the case of pro-Catholic groups, or education in emancipatory terms – the true vindication of secularism – for radical left-wing parties.

Overall, regarding the religious question, conservative groups were dissatisfied with the passing of the Constitution of 1931. Agrarian and Basque-Navarre MPs proposed to reform it as soon as possible to improve the acknowledgement of individual rights and to limit the role of the state in the lives of citizens, which they regarded as invasive. The Carlist newspaper *El Cruzado Español* showed that certain trends in pro-Catholic movements were thought to be detrimental to their interests. Surprisingly, they understood freedom of conscience as contrary to the values of religious freedom, in a sense opposed to the views of Catholic MPs of the Popular Agrarian Minority and the Basque-Navarre Minority (*El Cruzado Español*, 11 December 1931: 5).

The texts of the Preliminary Constitutional Draft, the Constitutional Draft, and the finally numbered article 27 of the Constitution are identical. They acknowledge the guarantees to exercise religious freedom and freedom of conscience. It can be argued that the interpretation according to which state secularism was established in articles 26 and 27 of the Constitution of 1931 was already defended in the Legal Statute of the Provisional Government on regulating the competences of church and state. However, the third section of that statute did not specify any duty or limits to the exercise of beliefs or worship (Cuenca Toribio 1980: 154; Juliá 2009: 140).

Article 12 of the Preliminary Constitutional Draft (article 25 of the Constitutional Draft and 27 of the Constitution) established public and private worship, maintaining the civil acknowledgement of the status of members of religious orders (Preliminary Constitutional Draft of 1931, art. 12). Instead, the Constitutional Draft restricted freedom of worship to the private realm, enabling public powers to determine the conditions for its exercise (Juliá 2009: 199). Article 27 of the Constitution added the civil jurisdiction of cemeteries to article 25 of the Constitutional Draft, as well as another contentious element – in practice unacceptable to Catholic groups: the public exercise of religious worship should be authorized by government.

According to Joaquín Varela Suanzes-Carpegna, the passage of article 26 also reflected 'anticlerical sectarianism' by restricting religious freedom ([2007] 2014: 594). Alfonso Fernández-Miranda stressed that, contrary to the state secularism inspired by the Constitution of 1931, the principle of religious freedom was integral to the secular and liberal modern state. That model of the liberal state should leave room for freedom of conscience, free speech, and freedom of assembly, maintaining a principle of neutrality that the Constitution of 1931 discarded (Fernández-Miranda 1978: 67). Despite the caution displayed by the speaker (*presidente*) of parliament, Julián Besteiro of the Spanish Socialist Workers' Party, when he announced the discussion of those articles, that circumspection was not a hindrance to bringing up their effects on other articles in the public debate. It was precisely this aspect that added more complexity to the constitutional sessions held in October 1931. In fact, some of these sessions extended into the evening and until very late in the early morning (Cabrera Calvo-Sotelo 1995: 15).

From a conceptual point of view, the idea of freedom of conscience was strengthened through positive related expressions such as autonomy, worship, and free education, which did not necessary restrict religious freedoms. The realm of freedom of conscience was enlarged to mean, in some cases, the freedom of citizens to make their own judgements, even if they were opposed to the goals of either the state, the Catholic Church, or any other political doctrine. Catholic parties such as the Popular Agrarian Minority and the Basque-Navarre Minority, with exceptions among their members, accepted that the principle of freedom of conscience was compatible with the defence of Catholic beliefs and a sort of secular state which would not endorse any official state religion.

The first stage of the constitutional debate, in September, focused on finding parliamentary support. The second phase, in October, revealed two counterpoints: on the one hand, a view of the state compatible with a high degree of autonomy for Catholic institutions within the protection of the democratic republic (postponing the ideals of secularism and the neutrality of centre and left-wing political parties); on the other hand, an understanding of society and the new constitutional order as guaranteeing those freedoms established in contemporary constitutions from Europe and America. This second alternative entailed the support of a model of secularism inspired by French republicanism, effectively separating the civil power of the state from the religious power of the Catholic

Church. There was no mention of the Catholic Church in article 27 of the Constitution. It established freedom of conscience as if it was independent from the right to profess and freely exercise any religion. Thus, the ideal of freedom of conscience was consciously left undefined, lacking the details to become a clear concept.

There was not a unanimously accepted definition of the concept of freedom of conscience, but rather several meanings endorsed by different representatives. It was therefore a contested concept. The modern meaning of freedom of conscience connects this principle to religious freedom, with which it is sometimes seen as synonymous. However, this account shows the varying uses of the idea of religious freedom and freedom of conscience at the time of the Constituent Assembly. A current sketch of the principle of freedom of conscience is the one proposed by Dionisio Llamazares Fernández. He defines it as the competence to hold certain convictions or none, and the right to either make them public or not (Llamazares Fernández 2011: 22–23).

It is remarkable that the Constitution of 1931 was the first and only one in effect in Spanish history that included the principle of freedom of conscience as such (Valero Heredia 2008: 24). The acknowledgement of freedom of conscience, academic freedom, the right to profess any religion, the withdrawal of privileges based on ideas or beliefs, and the expansion of public education established the constitutional order of a secular society distanced from previous constitutional experiences in that regard (Lacasta Zabalza 2007: 292). Article 16.1 of the current Constitution of 1978 establishes freedom of worship, ideological freedom, and religious freedoms for every individual and community, within the regulations prescribed by specific laws.

3.8 Concluding Remarks

The first part of this chapter provides some keys to understanding the debate over the religious question and its effects on the increasing polarization of the Constituent Assembly. First, it examines the backdrop of the breakup of the state's relationship with the church. It also had an indirect consequence: the radicalization of the Popular Agrarian Minority and the Basque-Navarre Minority. Second, both of these parties rejected any reduction of the privileges of the Catholic Church. Third, left-wing parliamentary groups imitated the anticlerical strategy of the Radical Socialist Republican Party. Finally, parliament's refusal to accept the proposal of MP Enrique Ramos, of the Republican Action Party, to acknowledge the Catholic Church as a public law corporation disappointed moderate right-wing MPs.

The second part examines the main concepts used by MPs in their arguments over the position of the Catholic Church in a non-denominational state when compared to French parliamentary debates: secularization, autonomy, freedom, and state. Even though concepts such as tolerance and moral conscience were also used on some occasions, the ideas of secularization and religious freedom did not mean the same to all those MPs who delivered speeches during the constitutional debate on that issue.

The Basque-Navarre Minority, the Popular Agrarian Minority, the Radical Socialist Republican Party, and the Republican Left of Catalonia unleashed two incompatible models of democracy. For both minorities, with a few exceptions among their members – as Antonio Royo Villanova's involvement shows – the democratic state should be denominational and protectionist. By that they meant recognizing the role in education and civil society of Catholicism as the faith professed by the majority of Spaniards. For the Radical Socialist Republican Party and the Republican Left of Catalonia, Catholic institutions should be supervised through state regulations. Both parties equated secularization and the defence of freedom of conscience with the need to decrease the influence of the Catholic religion in the public sphere.

The French Third Republic, by means of the *Loi concernant la séparation des Églises et de l'État* of 1905, is vital to understanding both the discussion and the arguments used by MPs when they deliberated about the so-called religious question. This chapter finds that the Radical Republican Party and the Radical Socialist Republican Party promoted a process of state secularization against the economic and ideological interests of Catholic groups. Right-wing political parties interpreted the separation of church and state in the French Third Republic as problematic to assuring social peace in Spain, whereas left-wing groups endorsed the regulation of religious orders by the state and limitations to their public worship.

Two incompatible meanings of freedom of conscience were discussed in the Constituent Assembly. This chapter argues that the Popular Agrarian Minority and the Basque-Navarre Minority defined freedom of conscience as the public freedom of religious institutions – in practice, the Catholic Church – to provide education and to exercise freedom of worship without additional state regulations to those acknowledged in previous laws. For the Spanish Socialist Workers' Party, the Radical Socialist Republican Party, and the Republican Action Party, freedom of conscience entailed preventing religious orders from providing primary education and regulating the budget for and worship of religious orders through laws. As a consequence of the constitutional regulation, the Jesuit order would be banned on 23 January 1932, which was regarded as a drawback for state secularization and a source of antidemocratic propaganda mainly due to extended prejudices against it.

According to the Radical Socialist Republican Party, if the nascent parliamentary democracy did not comply with the expectations of the poorer and middle classes, republican institutions could be delegitimized. In this sense, not all political parties with seats in parliament assumed a pluralist sense of democracy that would have left room for religious and civil institutions to exercise their functions without permanent regulation by state powers. From a conceptual point of view, terms such as secularization, laicism, and religious freedom gave rise to ideological dispute with very similar features to the discussion about property rights. Both issues, the religious question and property rights, provoked a radicalization of the conservative right-wing Popular Agrarian Minority and the left-wing Republican Action Party.

Notes

1 Ricardo Gómez Rojí, Basilio Álvarez Rodríguez, and Luis López Doriga were priests, whereas Ramón Molina Nieto, Santiago Guallar, Antonio Pildáin, Jerónimo García Gallego, Joaquín Beunza, and Lauro Fernández González worked as canons in cathedrals and religious institutions.

2 As a token of the international echoes of the religious question, the philosopher and social scientist Jon Elster, who have studied constituent processes from a transnational perspective, argues that the constitution-making process of 1931 in Spain seems to be biased because of a long-lasting prejudice against Catholicism that went beyond reasonable fear or distrust of Catholic groups (Elster 2018: 237).

3 The terms *laicismo* and *secularización* are translated into English as secularization. The idea of *laicismo*, more often used in 1930s Spain, entailed social policies. In practice, both of them referred to the process of secularization.

4 The second paragraph of article 27 in the Constitution of 1931 established that "all cemeteries will be exclusively subject to civil jurisdiction".

5 A thorough study of the principle of secularism can be found in the works of Víctor J. Vázquez Alonso: *Laicidad y Constitución* and, exclusively focused on the Spanish case, *Constitución de 1931. Estudios jurídicos sobre el momento republicano español*. In this second book, the chapter 'El legado laico de la Segunda República Española' ('The lay legacy of the Spanish Second Republic') briefly analyses to what extent the secularism defended by republican MPs conflicted with the modern concept of secularism (Vázquez Alonso 2017: 369–371).

6 "[…] buscabais medios para que la Iglesia no estuviese separada del Estado, para que el Estado tuviese una intervención en la Iglesia" (DSCCRE, 13 October 1931: 1695).

7 This section is a revised version of the article Bellido 2017.

8 "[…] he dicho que era necesario, en primer término, substituir aquella mezquina tolerancia religiosa por una libertad de conciencia […]" (DSCCRE, 9 September 1931: 818).

9 Adolfo Posada, legal scholar of the School of Oviedo and member of the Legal Advisory Commission, was opposed to considering the Catholic Church as a public law corporation. Posada believed that such a category was outside the legal tradition of Spain (Posada 1932: 150).

10 *Jaimista* was the label used for the political and social Catholic movement in favour of replacing Alfonso XIII with Jaime de Borbón y Borbón-Parma as King of Spain.

11 The deliberations on freedom of conscience and freedom of teaching were conditioned by the strategy that the Spanish Socialist Workers' Party adopted in its extraordinary congress held on 11 July 1931. There, two guidelines to a large extent based on the ideals of the Free Institution of Education (*Institución Libre de Enseñanza*) were assumed: multi-grade universal and secular state education, and free-of-charge teaching inspired by humanist ideals (Ostolaza 2012: 213).

12 "Nosotros tenemos, de una parte, la obligación de respetar la libertad de conciencia, naturalmente sin exceptuar la libertad de la conciencia cristiana; pero tenemos también, de otra parte, el deber de poner a salvo la República y el Estado" (DSCCRE, 13 October 1931: 1670).

13 "Es preciso consignar que el principio de la libertad de enseñanza es para nosotros incompatible con el principio de la libertad de conciencia" (DSCCRE, 20 October 1931: 1831).

2 Reforms towards a Social State (September to October 1931)

The first part of this chapter surveys the idea of social rights as enshrined in the Constitutions of Weimar and Spain. Weimar constitutionalism inspired Spanish representatives to revamp the legal and political language. Social and economic rights were interpreted through the lens of European constitutionalism. That fact does not exclude the relevance of other constitutional texts in Central and South America. Very remarkably, the Constitution of Mexico of 1917 had an impact on Spanish legal scholars and intellectuals. Nevertheless, Central European constitutionalism was the cornerstone of modern institutions to Spanish MPs.

The second part discusses the rivalry between Manuel Azaña and Niceto Alcalá-Zamora, the most prominent leaders of left-wing and right-wing republicanism, respectively. Besides, it reviews some of the tenets of the state administration according to Claudio Sánchez-Albornoz and Manuel Azaña, of the Republican Action Party, on the one hand; and Niceto Alcalá-Zamora and Juan Castrillo, of the Progressive Republican Party, on the other hand. The arguments of right-wing and left-wing representatives when designing the constitutional safeguard of individual freedoms made patent the tension between two rival understandings of liberalism and republicanism.

Social rights and policies proposed by classical liberal parties such as the Progressive Republican Party and the Liberal Democratic Republican Party, on the one hand, and the more ambitious proposals (from an economic point of view) defended by the Spanish Socialist Workers' Party and the Republican Action Party, on the other hand, were partly inspired by the political experience of Germany since the Weimar Constitution of 1919. Following that thread, this chapter addresses the main features of social rights as defined in the Weimar Constitution, their influence on the Spanish Constitution, and the alternatives of reformism discussed in the Constituent Assembly.

2.1 An Outline of the Constitutional Model of Weimar (1919)

In the Weimar Constitution, article 6 of Chapter I (The Reich and the States), Section I, assigned exclusive legislative powers to the Reich in seven areas,

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whereas article 7 attributed 20 competences to the Reich compatible with special faculties of the *Länder*. Some of them were linked to social rights: to protect maternity, childhood, and adolescence; to provide public health services; to safeguard the right to work insurance; to protect workers and employees (even if in an unspecified sense); to take care of discharged soldiers; as well as other legislation areas (a total of 20). In Chapter II (Life within a Community), Section II, article 119 acknowledged social welfare as a legal duty of the states and their institutions, specifically regarding motherhood and large families with children.

For the first time, the idea of social welfare derived from the *Sozialstaat* (social state) was formulated in a constitutional text. Correspondingly, the state should satisfy the needs of vulnerable social groups. As a token of this new constitutional trend towards addressing social issues, it is remarkable that only ten articles (109–118) were enshrined in Chapter I (The Individual), whereas in Chapter II (Life within a Community), there were 16 (119–134). The welfare state was built on the basis of articles 109, 119, 122, 151, 155, 161, 162, and 163. Together with them, social laws were drafted to fight against the effects of the First World War: poverty, inflation, and social unrest (Stolleis 2013: 99).

In a similar vein, article 122 aimed to prevent youth "from exploitation as well as from moral, spiritual, or physical neglect". This series of rights was acknowledged together with the right to assemble (art. 123), to association (art. 124), and to secret vote (art. 125) in Chapter II, Section II (Community Life). Therefore, in the Weimar Constitution of 1919 there were no clear distinctions between those rights which nowadays are identified as social rights and civil rights, namely in the latter case, individual rights such as the rights to association or movement, for example. That feature accounts for encompassing both types of rights in the section named Community Life.

In Chapter IV of the Weimar Constitution (Education and Schools), articles 142 and 143 established free instruction and the duty of the public powers to provide education for the youth. Article 144, more accurately, specified that "the entire school system shall be under the supervision of the state", and article 145 acknowledged that "compulsory education shall be universal". Article 146 was even more detailed: it also made clear that primary, secondary, and higher education were to be regulated on the basis of equality and merits: "[...] for the acceptance of a child into a school [it shall be considered] his talent and inclination, but neither the economic or social position nor the religious confession of his parents are authoritative".[1]

In Chapter V (The Economy), article 160 imposes on employers the duty to respect the need for free time for workers to exercise their civic rights. Article 161 creates an insurance network to address for maternity care and to alleviate the economic needs of the elderly, those with infirmities, and those with other disadvantages in life. The means that the state could use to protect these vulnerable groups were not made explicit, even though further details to regulate them were meant to be addressed in ordinary legislation. Together with these rights, article 163 established the provision of livelihood support for the

unemployed. Special laws were intended to detail the requirements and means to make that help effective.

2.2 The Imprint of Interwar Constitutionalism on Economic and Social Laws

From a historical perspective, before the advent of interwar constitutionalism, it was impossible to think of constitutional processes transforming economic and social demands into laws. The adaptation of economic and social laws into constitutional rules was determinant of the validity of new ordinary laws: an almost unexplored concept before the Weimar Constitution. Both the Mexican Constitution of 1917 and the Weimar Constitution of 1919 unleashed the so-called process of 'social constitutionalism' (Herrera 2003: 81). It was during the interwar period that institutional democratization and a rationalization of power first ran in parallel. Democracy, constitution, and parliamentarism became entangled ideas. The distrust of the executive power, common to interwar constitutionalism, was the consequence of a growing optimism about the reformist potential of law to organize the collective life of citizens (Corcuera Atienza 1991: 17).

In this historical context, the expansion of workers' rights was considered a task of the public powers. The primary historical contributions of interwar constitutionalism to the social state can be summarized in two achievements: a new insight into the principle of equality as providing room for all members of social groups and the very idea of social rights (Matia Portilla 2000: 346). However, careful attention to the distribution of articles in the Weimar Constitution seems to confirm that the determination of the rights that should be acknowledged as social rights was hardly clear. Of special note in this regard is Friedrich Völtzer's attempt to trace the development of the idea of the social state from the German political theories in vogue during that time to the constitutional debate of Weimar (Vita 2018: 571).

Following new constitutional trends rooted in the German legal tradition, and partly explored in the Mexican experience of 1917, social rights were acknowledged in the Constitution following, at first sight, two mutually exclusive methods. On the one hand, there was a basic approach seeking social emancipation, as was later the case in Austria and Spain. According to this view, workers demanded a new legal status as a differentiated social class in the Constitution. On the other hand, the demands of disadvantaged groups which had been historically excluded from society should be fulfilled through social policies and ordinary laws (Herrera 2003: 76). Likewise, the Weimar Constitution explicitly acknowledged job protection and a standard law for workers (art. 157). However, "independent middle classes in farming, industry and commerce" were under the state's care. In practice, that measure constitutionally safeguarded other groups in society, and not just workers, against rights violations (Corcuera Atienza 1991: 29–30).

One of the innovations of the Weimar Constitution of 1919 was the idea that both ordinary laws and the judicial power should protect the social state as specified in the Constitution (López González 2019: 192). Ordinary legislation was not simply understood as a legal instrument to apply the contents of the constitutional text but also as the only available means to improve social rights. Otherwise, laws could not enforce social rights. To accomplish this, constitutional courts were considered to be the competent organs to adjudicate on constitutional conflicts of rights, as the Constitution of Austria (1920) exemplified in detail.

2.3 The Language of Weimar's Constitutional Debate

The lack of confidence that members of the Constituent Assembly of Germany felt regarding the odds of agreeing on a constitutional project were evident from the very beginning of the constitution-making process in late 1918. In order to avoid a clash between liberal and socialist groups, the Constitutional Draft was passed without major amendments two days after it was presented, on 10 February 1919 (Rürup 1992: 143). Friedrich Naumann, a prominent liberal MP, used the idea of the social state to defend the fundamental rights of the people. These rights were considered binding rules which created at the same time a new right for the citizens and a new duty for the state, as expressed by the legal scholar and political scientist Otto Kirchheimer (Rürup 1992: 154).

The involvement of Friedrich Naumann in the efforts to pass the Weimar Constitution took into account the moderate interests of both the workers' movement and the middle classes. German MPs included some interpretive margins to improve social rights in accordance with article 156 (private property) and article 165 (workers' councils) (Kolb [1988] 2004: 19–20). For instance, a new right for workers was the state's obligation to provide jobs for those citizens that could not find any by themselves (art. 163), which was a major achievement in the constitutional history of Europe (Henig 2002: 20).

Hugo Preuß, prominent German scholar and a main contributor to the draft of the Weimar Constitution, attended to the historical ties of German and Austrian legal history. His main focus on their distinct historical forms of government gave way to a syncretic constitution for Germany. The unwritten Constitution of Great Britain and recent trends in constitutionalism in Europe and America provided the baseline. Nevertheless, Preuß prioritized the adaptation of the project to Germany's national features (Stirk 2002: 511). Towards the end of 1918, he had already finished a preliminary version of the Constitution, though that draft was substantially modified after being delivered to the National Assembly (Jacobson and Schlink 2000: 110). The official draft as written by Preuß did not clearly express social concerns. This was included only after revision during a plenary meeting, when left-wing representatives claimed that there were insufficient social aims included in the Constitutional Draft (Vita 2018: 574).

At a later stage, the original draft was largely modified. MPs Hugo Sinzheimer and Max Quark opened up the catalogue of social rights by including fifteen new articles. Article 165 established the duty of the state to create and to supervise the organs which should safeguard the equal and symmetric representation of workers and employers in workers' organizations. That article boosted the representation of social groups in the constitutional text (Vita 2018: 578).

In the same vein, articles 161 and 163 were written in accordance with the future design of a system of social welfare, making possible what Sinzheimer regarded as a labour law for workers to protect them against unemployment (Gil Albuquerque 2016: 54). Sinzheimer thought that an economic section where the rights of workers were established should be the central part of the Constitution. To organize the economic means of the nation, from firms and factories to trade unions and individual workers, entailed for him equating workers' councils (*Arbeiterräte*) with parliament in a sort of 'economic democracy' (Gil Albuquerque 2016: 253).

As presented by Preuß on 18 December 1918, the first draft was aimed at broadening state faculties. Some fundamental rights were excluded, even though religious freedom, equality before the law, and guarantees for social minorities were mentioned. In the draft presented on 3 January 1919, there already appeared some regulations to protect workers, to reduce the harmful effects of unemployment, and to create representative committees of trade unions. As a token of the tendency to extend the faculties of the state, in the next Constitutional Draft delivered to the *Reichstag* soil use and state seizure were also acknowledged (Stolleis 2019: 245).

The experience of German legal scholars during the 1910s had been challenged already before the Weimar Constitution was even enacted. Specialists in public law were chiefly interested in shaping a new idea of the state (Jacobson and Schlink 2000: 41). State and society were confronted with each other in the Weimar Republic due to the uncertainty about how to regulate the industrial economy, diminish social inequalities, and deal with social conflicts democratically (McCormick 2013: 55). The goal of acknowledging underprivileged social groups in the Constitution and of responding to their economic demands was not completely unknown before 1919, yet strengthening the budgetary capacity of the state was thought to be indispensable to complying with the growing number of social rights. From a legal and an administrative point of view the Weimar Constitution was more ambitious than any previous constitutional text in European history.

With regard to housing, the Constitution improved the efforts already made during the First World War in Germany. Article 155 established a number of circumstances where it would provide housing for families with children and war veterans (Stolleis 2013: 110–111). In April 1920, the right to work acknowledged in article 163 was fully implemented through the *Law on the Employment of the Severely Disabled*: 2% of the total number of jobs, at least

theoretically, were to be assigned to severely disabled workers without exception (Stolleis 2013: 124).

2.4 Spanish Legal Scholars and Intellectuals in the Constitution-Making Process

The advent of the Republic of Weimar and the Spanish Second Republic triggered a deep process of institutional and social democratization. A number of legal scholars and professional politicians who were involved in the constitutional debate of 1931 were also acquainted with the modern theories of constitutional law. Professors of state theory (roughly equivalent to constitutional law), Manuel Martínez Pedroso,[2] Eduardo Luis Lloréns,[3] Adolfo Posada, and Nicolás Pérez Serrano[4] had a large influence on the constitution-making process.

Following Carl Schmitt's theory of the political unity of the state in *Political Theology: Four Chapters on the Concept of Sovereignty*, Luis Recaséns Siches,[5] of the Progressive Republican Party, argued that the constituent power was an indivisible unity in an unequal position if compared to the executive, the legislative, and the judicial powers. The constituent power was the foundation and superior of each one of these powers (Recaséns Siches 1931: 71). That view strengthened the modern understanding of the Constitution in line with the European constitutionalism of the 1910s and 1920s. It is relevant to point out that the works of Carl Schmitt and Hans Kelsen were known to Spanish lawyers.[6] Kelsen was mainly recognized because of his contribution to theorizing the role of constitutional courts, whereas Carl Schmitt's contribution was regarding political sovereignty.

A careful examination of the references to the Weimar Constitution during the constitutional sessions of the Spanish Constituent Assembly in 1931 shows that two leading figures of the constitution-making process in the Constitutional Commission, Luis Jiménez de Asúa of the Spanish Socialist Workers' Party and Francisco Javier Elola of the Radical Republican Party, were acquainted with the main contributions of German and Austrian lawyers. Their own scholarly research on the interwar period was intended to apply some of the principles found in the Constitutions of Weimar and Austria (Garrorena Morales 2011: 41).

The desire to expand individual, and especially social, rights ran in parallel with the goal of rebuilding the administrative structure of the state (Gómez Carbonero 2001: 283). For example, the Constitution of 1931 drew on a proposed project of social security for workers unprecedented in Spanish history. Article 46 outlined a project of social legislation including health and social insurance; protection of the elderly, motherhood, the unemployed and disabled people; and the regulation of working hours together with minimum salaries for workers (art. 46).

As a token of that new constitutional trend, the writer, politician, and journalist during the Bourbon Restoration Práxedes Zancada thought that

'professional organization' could be established as a middle ground to satisfy social demands together with individual representation in parliament (Zancada 1930: 208). His readings on comparative constitutionalism led him to uphold mixed representative systems to improve the constitutional model inaugurated with the Weimar Constitution.

In the end, the social rights acknowledged in the Spanish Constitution of 1931 included assistance services for diseased, ill, and aged people, mothers, and children, as well as regulations for manual workers regarding working hours, minimum wages, health insurance, workers participation in management, and the administration and benefits of companies (art. 46); similar rights for agricultural workers and fishermen (art. 47); free primary schooling (art. 48); and universal access to justice (art. 94). The Spanish Constitution of 1931, unlike the Weimar Constitution, openly granted access to justice to people who were economically needy.

On the other hand, the definitions of workers' and education rights in the Constitution of 1931 retained some small differences when compared to the German Constitution. Spanish MPs avoided specifying further details, declining to explain the contents of those social rights. Instead, they aimed to keep their definitions open in the constitutional text and to implement the adapted policies through ordinary laws. Then, the future decisions of whether to expand or to limit those rights would depend on the economic and political circumstances of the country. From a programmatic point of view, the ambitious programme of social reforms shared with other European countries at that time the general aim of improving the national economy through state intervention. In that regard, centre and left-wing political parties such as the Radical Republican Party and the Spanish Socialist Workers' Party agreed.

The legal condition of workers in the Weimar Constitution and the Spanish Constitution of 1931 was similarly regulated. The legal adviser to parliament (*Cortes*), Francisco Ayala,[7] declared that article 46 did not fit with how the proletariat was organized in Spain, since the agrarian features of the Spanish economy made it difficult to protect farmers and day labourers in the same way as industrial workers were. Ayala thought that this problem should be resolved both through article 47 and through specific ordinary laws (Ayala 1932: 12).

In one of his writings in exile after the Spanish Civil War, Luis Jiménez de Asúa stood for the willingness of Spanish MPs to imitate the Constitutions of Mexico (1917), Russia (1918), Germany (1919), and Romania (1923). Accordingly, the Spanish Constitution of 1931 should safeguard freedoms against any later outrage of parliamentary majorities against the rights there enshrined. For that reason, courts of justice should prevent any attempt to pass ordinary laws in conflict with the constitutional text. In this way, the Constitution was meant to be an expression of a 'superlegality' meant to eliminate the misuse of ordinary laws that had occurred in the past (Jiménez de Asúa 1943: 12).

Luis Jiménez de Asúa was perfectly aware of the contents of other constitutions in Europe that acknowledged new collective rights together with individual ones. That fact, in his view, also indicated the path that the Spanish

Constitution should follow: to give expression to the modern ideas, that is to say, to adequately respond to the tension between legal expertise and popular demands (DSCCRE, 27 August 1931: 644). As a consequence, the attempts of any social group to arrange its own legal status were something that should be included in the Constitution. Jiménez de Asúa's arguments intended to fight the far-fetched ideal of ensuring constitutional rights without proper "normative regulations" and "jurisdictions to make them efficient" (DSCCRE, 27 August 1931: 646).

Individualism was often associated with the ideology of classical liberal parties. As such, it was diametrically opposed to socialism. However, just after the birth of the republican regime in Spain, the defence of individualism was softened by the liberal parties themselves, as they instead embraced socialist concerns. The centrist MP Ricardo Samper resorted to the reformist goals of "historical republican parties" that lead them to assume some "tenets of the socialist party" (DSCCRE, 11 September 1931: 871).

With a renewed optimism, the philosopher José Ortega y Gasset, of the Group at the Service of the Republic, firmly believed that the social rights that were to be acknowledged in the Constitution would not break with any political tradition, either Spanish or European, but that they were instead the demands of modern European constitutionalism. To him, the fears about the broadening of rights were groundless, the 'tricks' of men using any available resource against advances in society (DSCCRE, 4 September 1931: 779).

Nonetheless, social concerns were sometimes expressed as the inevitable outcome of class struggle. Luis Araquistáin, an intellectual and member of the Spanish Socialist Workers' Party, argued in favour of the action of both economic and social forces. He revived the ideas of Ferdinand Lasalle about what a written constitution meant in a society characterized by social conflict. European constitutionalism made this visible. The constitutional models of other European countries relied on "a social Constitution" where "economic, physical and moral forces" could reach a balance of interests in society (DSCCRE, 16 September 1931: 941). In that same speech, Araquistáin stressed that the examples of Hans Kelsen in Austria and Léon Duguit in France had introduced the very idea of law-making changing its focus from subjective rights to normative and objective rights. They were the men responsible for an unprecedented new constitutionalism in which society, and not individuals, the nation, or the state was the main concern (DSCCRE, 16 September 1931: 942–943). To Duguit, federal unity and state unity should correspond with each other: without the unity of the state neither a unitary nor a federal state could be preserved (Duguit [1913] 2016: 53).

Duguit had recourse to a biological metaphor according to which individuals were cells with their own autonomy, but being part of an organism (the 'state-person') (Duguit [1901] 2015: 5–6). Following his doctrine, individual consciences within a certain land should raise a collective conscience never equal to the mere addition of its elements (Duguit [1901] 2015: 10). In his words, the state is the collective stakeholder of the individual rights it acknowledges.

Thus, the nation can never do so because its existence is previous to that of the state (Duguit [1903] 2005: 72–73). To him sovereignty was either a competence or faculty distributed between all individuals that are members of a state or a legal fiction embodied in the nation (Duguit [1903] 2005: 167).

The array of social functions attributed to the state in the 1920s and the 1930s was a response to what many Spanish representatives understood as a new logic of the state, one which distanced itself from the way in which political institutions were built at the end of the nineteenth century. The administrative resources of the state were presented as a chance for economic and social equality. This optimistic view was widely shared by left-wing MPs in parliament. Fernando Valera, of the Radical Socialist Republican Party, summarized the ideal of social service in the example of education. The state should provide services that no other social body or institution could offer its citizens (DSCCRE, 21 October 1931: 1869).

2.5 The Concept of Social Reform in Spain

The use of expressions such as social function, social life, social fact, social end, social good, social justice, social legislation, social problem, social class, social usefulness, and social order was widespread, even commonplace. In contrast, the expression 'social right' was mentioned on only a few occasions during the constitutional debate: by the conservative MP of the Basque-Navarre Minority Jesús María Leizaola (DSCCRE, 3 September 1931: 794); by Manuel Rico Avello of the Group at the Service of the Republic (DSCCRE, 7 September: 1500); and by the legal scholar Francisco Javier Elola, of the Radical Republican Party (DSCCRE, 12 November: 2298). The expression 'collective right' was much more frequently used to mean the rights of workers, women, the elderly, and children.

In fact, incompatible ideas about how and why a new category of rights should be constitutionally enshrined were faced in the Spanish Constituent Assembly of 1931. The Weimar Constitution revealed the pervasive disagreement between the meanings and functions of social rights (Cascajo Castro 1988: 19). Indeed, during the constitutional debate of 1931, the very idea of social rights was discussed in its early stages. Even though social concerns and collective interests were the main issues in the constitutional debate, the set of rights regarded as 'social' were sometimes unclear or simply a vague outline.

From a conceptual point of view, it is hard to grasp to what extent Spanish MPs were aware of the features that distinguished social rights. Left-wing MPs not only contrasted them with individual rights, as intended by the use of the expression 'collective rights', but also regarded them as within an autonomous branch of the scientific discipline of law. Collective rights were thought compatible with their existence as subjective and individual rights in a contemporary sense. A clue about this idea can be found in Eduardo Barriobero's speech. For this federal MP, social law was already a legal branch derived from Italian penal law, in the sense that economic compensations were the essence of social justice (DSCCRE, 12 November 1931: 2286).

For a number of right-wing MPs, the social state was not a legal concept and lacked material content that could be applied. In contrast, left-wing MPs firmly believed that social rights were normative principles to protect autonomous interests and hopes (Cascajo Castro 1988: 50–51). The former thought of social rights as a special kind of individual rights, which in certain cases could be exercised collectively insofar as they affected a certain social group. The latter conceived of social rights as programmatic principles to be jointly safeguarded through constitutional provisions, ordinary laws, and courts of justice.

Spanish MPs reinterpreted select aspects of Central European Constitutions, mainly from Weimar (1919) and Austria (1920), that could particularly benefit workers, women, and children. In this light, it was the task of the state to provide chances to improve the living conditions of disadvantaged groups. For that reason, in the Spanish constitutional debate, the idea of collective rights can hardly be distinguished from that of social rights. Collective rights did not always mean an ideal opposed to individual rights, but rather denoted the moral concern to protect vulnerable groups through specific laws. Such laws were not included in the constitutions of the nineteenth century. The idea of collective rights was applied either to the entire society or to social groups and classes with conflicting interests.

2.6 The Reformist Alternatives of the Republican Action Party and the Progressive Republican Party

The Republican Action Party (moderate left-wing) and the Progressive Republican Party (moderate right-wing) followed opposite strategies in the constitutional debate of 1931. Despite being two minority parties in the general election of June 1931 with just a few seats in parliament, their strategies were determinant of the political alliances formed between August and October 1931. The divergent interpretations in the academic literature of this period have not weighed up the reasons for and consequences of the parliamentary alliances that each of these parties pursued, together with the use of political concepts by their MPs.[8]

The first two heads of government, Niceto Alcalá-Zamora of the Progressive Republican Party and Manuel Azaña of the Republican Action Party, put into practice two policies for pursuing pacts with other parliamentary groups, by acting as hinge parties with a reformist agenda. The former opted for partial agreements with all parties except the radical-socialists and peripheral nationalist parties, instead of fixed alliances with other minority groups. The latter, in contrast, preferred to build a left-wing majority to pass constitutional articles with the support of the Spanish Socialist Workers' Party, the Radical Socialist Republican Party, and nationalist parties in Catalonia, the Basque Country, and Galicia. Insofar as the constitutional debate moved forward, the differences between the Republican Action Party and the Progressive Republican Party and, more strikingly, their leaders, ended in a broken dialogue between government and opposition.

The fact that two minority parties in 1931 found two of their leaders as heads of state, Niceto Alcalá-Zamora, and prime minister Manuel Azaña, can be explained as a consequence of the mutual distrust of the largest parties: the Spanish Socialist Workers' Party, the Radical Republican Party, and the Radical Socialist Republican Party. These three parties wanted minority leaders, since their own candidates could be easily rejected due to the struggle between the political groups in parliament against the concentration of power in one majority party.

In order to understand the parliamentary strategies of these two parties, some historical remarks are needed. First, the founding moments of these parties and their relationship to each other are briefly presented. Second, the political affinities that formed during the constitutional sessions are examined. Finally, some speeches by MPs from both parties are selected to illustrate their views on the design of the democratic republic. The first part examines the processes that ended in unlikely alliances between left-wing and moderate right-wing parties. The second part, instead, compares the interpretations of the democratic state made by the MPs from the above-mentioned parties.

The historical origins of the Republican Action Party are found in the efforts of José Giral and Enrique Martí Jara, who were both professors in Spanish universities and the closest collaborators of Manuel Azaña during the 1920s. Both of them enabled the formation of a group of intellectuals that signed a political manifesto to form a new republican party in 1925, Political Action (*Acción Política*), gathering republican supporters from rival ideologies (Espín 1980: 31). Yet, the structure of that future political party was not established. Miguel Primo de Rivera's dictatorship controlled the information published in newspapers, the authors of manifestos were relatively easy to identify, and the project of creating a democratic republic was supported by just a few political figures in 1925: José Ortega y Gasset of the Group at the Service of the Republic, Alejandro Lerroux of the Radical Republican Party, and Manuel Azaña of the Republican Action Party were the champions of democratic liberties during the dictatorship.

Still in 1931, before the general election was held, the Republican Alliance competed to be the main left-wing group in parliament.[9] Although its structure as a political party was hurriedly sketched, the intense public activity of its political platform in urban areas seemed to boost its chances to unite left-wing groups and become one of the largest parties in parliament. Internal disputes were constant: insofar as many of its members believed that they would be more likely to succeed independently in a general election, disagreements grew within a short time-span.

By closely examining how this union platform worked, conflicting views on institutional design can be identified. The necessity to coordinate not just ideological differences but also some opposite personalities was a hindrance. For instance, in order to keep the alliance together, Azaña promised Lerroux freedom of action within the organization (Avilés Farré 2017: 11). Additionally, in purely ideological terms, the debate about the territorial structure of Spain broke the

political programme of the platform. As a consequence, rivalries among partisans of a centralized state, federalists, and autonomists arose, even though the concepts of federalism and autonomism did not change. That disagreement made it difficult to establish a coherent political practice within institutions. Claudio Sánchez-Albornoz, Antonio Sacristán, and Gonzalo Figueroa were favourable to the first of these alternatives (Chernichero Díaz 2007: 67), whereas Manuel Azaña and Marcelino Domingo defended either autonomism or a special federal regime for Catalonia, the Basque Country, and Galicia.

By 1930, two reformist branches had developed two parallel political programmes from inside the Republican Alliance. On the one hand, there were the classical reformists, who had some programmatic affinities with dynastic parties[10]; on the other hand, there were the republican reformists led by Manuel Azaña and Marcelino Domingo. As a backdrop, socialists were reluctant to remain in the same coalition platform as reformists and radicals, since the election results in that case could erode the popular support expected from an independent candidacy of the Spanish Socialist Workers' Party (Suárez Cortina 1986: 287–88).

The strategies of the left-wing factions relied on their chances to succeed through separate parties in mobilizing industrial workers and day labourers. In 1931, the fragmented parliament resulting from the general election of 28 June was gradually challenged by centrist and right-wing political parties. On 11 July 1932, seven months after the passing of the Constitution, Lerroux, of the Radical Republican Party, delivered a speech in that vein to condemn the "divorce between, on the one hand, government and parliament; [and] on the other hand, the public opinion of the country" (Tomás Villarroya 1980: 59–60). That ongoing process, which started in 1931, eroded the cooperation between the centrist Radical Republican Party and the moderate left-wing Republican Action Party.

Manuel Azaña, of the Republican Action Party, regarded himself as a conservative republican at certain moments in his political career. He also used that counterintuitive label of a republican with the rhetorical aim of signifying a term usually linked to ideological rivals in a favourable way. According to Víctor Alba, some of his discourses seemed to praise a liberal and bourgeois republic. His address in the bull ring of Madrid in September 1930 was especially remarkable, when he made explicit the idea of building a republic where proletarians and liberal bourgeois could live together. Azaña's temperament fits better with that kind of conservative republicanism than with a revolutionary ideology (Alba 1981: 258–259). In 1930, the Republican Action Party was presented as a viable alternative to left-wing ideology as an embodiment of an alternative project, moderate when compared to that defended by other left-wing representatives of the Spanish Socialist Workers' Party, and more prudent than the ambitious and poorly coordinated programme of the Radical Socialist Republican Party.

Also in the summer of 1930, the Liberal Republican Right led by Niceto Alcalá-Zamora – renamed as the Progressive Republican Party before August

1931 – held a series of meetings (Álvarez Rey 1997: 38–39). The result was the political foundation of the party. The first declaration of the Liberal Republican Right was published in some newspapers and manifestos. The new label of progressivism was potentially more attractive than that of the liberal right. After it was passed in July 1930, the manifesto of this centre-right party was widely circulated. Legal reformism, without being expressed as such, was its programmatic key (Artola [1974] 1991b: 327; Álvarez Rey 1997: 41–42).

2.7 Political Negotiations between Manuel Azaña and Niceto Alcalá-Zamora

The differences between the political careers of Alcalá-Zamora and Manuel Azaña were remarkable. The former began his career as many other professional politicians did during the Bourbon Restoration. He first worked in administrative positions within the Liberal Party, rising to be the political secretary of the Count of Romanones, and ended up as the leader of a parliamentary group after the local elections led to the proclamation of the Spanish Second Republic in April 1931. Azaña was an indomitable man with extraordinary qualities for leadership, obvious from his first steps in politics. He hardly – and never totally – accepted the ruling personalities of Gumersindo de Azcárate, Melquíades Álvarez, or Alejandro Lerroux. In addition, there is another remarkable difference in their political loyalties: Alcalá-Zamora only reticently opposed the monarchy in 1930, whereas Azaña distanced himself from the monarchic regime almost from the beginning of Primo de Rivera's dictatorship in 1923 (Peña González 2000: 137).

Some of their attitudes towards each other are relevant to understanding their political collaborations at some moments and, likewise, the many differences in the strategic decisions they made. The moderate right-wing politician was vulnerable to the criticisms of his rivals as his unexpected choices threatened his political position – even more so after his secondary role in the decisions adopted by the coalition government during the constitutional sessions (Peña González 2003: 26–27). Azaña, in contrast, had the ability to bring forward unpopular decisions and to calculate the immediate political costs within government (often by concealing adverse consequences for certain groups), to deal with criticism, and to adapt his discourses to different audiences. He recognized the link that existed between public words and rhetoric on the one hand, and the capacity to foresee events on the other, as the main sources of creativity for politicians (Fernández Sarasola 2008: 954). That attitude was clearly reflected in his parliamentary speeches in the Constituent Assembly; for example, in his use of the concepts of revolution and reform as compatible and converging towards economic equality and social justice.

However, the leader of the Republican Action Party firmly believed that only a left-wing political alliance would be able to undertake the whole reformist programme for renewing the institutions of Spain. It was so often by making choices that increased the ideological division between left-wing and

right-wing parties. Niceto Alcalá-Zamora criticized Manuel Azaña's attitude in the sessions of 13 and 14 October 1931, when the religious issue was discussed, accusing him of risking the Constitution (Alcalá-Zamora 1977: 180). Niceto Alcalá-Zamora believed that his political opinion was disregarded by Azaña and other MPs in the coalition government. The leader of the Republican Action Party always distrusted Niceto Alcalá-Zamora and excluded the possibility of giving Alejandro Lerroux a ministerial post (Marco 2021: 80). Instead, the leader of the Progressive Republican Party saw himself in a weak position, unable to participate in the debates of ministers and obliged to be a precarious link between right-wing groups and parties in government. He perceived his presidential power as neither symbolic nor useful in the long run for the interests of the country.

Azaña's government (from 14 October 1931 to 12 September 1931) was often perceived by his opponents as weak, overreacting to the opposition's criticisms over legal and political decisions (Malefakis and Carr 1974: 45). Since Manuel Azaña became head of government in October, one of his priorities was to reform the army and the administration. He thought that neutralizing the military's power was the best answer to avoid upheavals and temporary insubordination. The alternative of obtaining its support for the republican regime was to him either impossible or counterproductive (Alía Miranda 2018: 80). The new order of priorities in Manuel Azaña's agenda consisted of, to a large extent, decisions opposed to Niceto Alcalá-Zamora's main concerns. The former aimed at a gradual but effective reform of all the institutions of the state, whereas the latter regretted the lack of agreement between left-wing, centrist, and right-wing parties, even if those pacts could slow down the reformist agenda of republican parties.

2.8 The Administration of the Republican State

In parallel to these developments, the political vocabulary drastically changed. During the Spanish Second Republic, the term 'liberalism' lost part of its ideological appeal and came to mean, for conservative and moderate socialism, tolerance and receptivity towards the ideas of others. The terms liberal and liberalism were left open to interpretation, sometimes intentionally undefined, without a clear meaning for a number of political groups. This was to a large extent the effect of the rhetorical uses of the terms liberal and liberalism by some prominent representatives as Manuel Azaña and the socialist MP Luis Araquistáin. The linguist Manuel Alvar quoted Azaña's speech in parliament on 9 March 1932 to clarify the position of left-wing republicans towards liberal attitudes and liberalism as something other than a political doctrine and closer to a widespread concern about liberties: "Liberalism is a frame of mind, or a mental concept, or a political doctrine; but freedom is a precise, technical, legal, and political concept with which the government has to govern, not with the concept of liberalism".[11]

Manuel Azaña firmly believed that Spain's model of an integral state should be consolidated in the future with the support of a limited but stable set of

national and regional parties. To him, the party with a majority of electoral support would be legitimated to carry out all kinds of government policies in compliance with its political programme. That idea contradicted the search for agreements and bargaining with other parties, even if that would entail relinquishing some programmatic maxims (Fernández Sarasola 2008: 909). To him, the new state should be built from its foundations, breaking away with the former liberal system as conceived in the nineteenth century (Juliá 2004: 223). Together with socialism and radical socialism, he thought of the results of the general election of 1931 as a legitimate sign to develop the entire programme of reforms as designed by left-wing republican parties (Payne 2006: 32). This belief was not a peculiar understanding by Manuel Azaña. Many other MPs conceived of majority rule as the instrument that authorized them to redesign the state in accordance with a political programme where transactions were often regarded as avoidable steps towards reformist goals.

In this light, numerous groups in society and politics declared themselves republican. This fact explains the two axes of the parliamentary decisions during the constitutional sessions: first, the ideological clash between left-wing and right-wing parties; second, the split between national parties and peripheral nationalist parties (Juliá 1995: 116). The diversity in parliament made it clear that only alliances with more than three parties would be able to pass constitutional articles. To reach a sufficient majority in parliament, 236 MPs were required. Taking into account the high number of abstentions when voting on most articles, for example those about women's suffrage and the religious question, 200 representatives should suffice to accept or deny a motion. Parliament consisted of 470 seats, a number that at first glance did not seem excessively demanding. However, the fragmentation in many political parties contributed to making it difficult to form any consistent plan for future agreements around stable majorities.

The theoretical alliance of the Spanish Socialist Workers' Party and the Radical Republican Party was not enough to pass constitutional articles. Socialist MPs often opted for agreements with the Radical Socialist Republican Party (the third party in number of seats), the Republican Left of Catalonia, the Republican Action Party, the Autonomous Galician Republican Organization, and some other minority groups such as the Regionalist League of Catalonia. That system of alliances, however, was not stable in 1931. A number of constitutional articles that were passed did not depend on this particular combination. Nevertheless, changing alliances among those parties were a resource for the coalition government to decide on the most disputed articles of the Constitutional Draft, such as those about the religious issue and state seizure.

Surprisingly, the speeches of the MPs who belonged to the Republican Action Party and the Progressive Republican Party seemed closer to each other. Claudio Sánchez-Albornoz, of the moderate left-wing group, took a stance for a new administrative model for the state nurtured by the experiences of Germany and the United States. According to him, the federal state was no longer a reliable model to manage the administrative complexity of modern times.

That distrust of federalism was widely shared by moderate right-wing parties and the centrist branch of the Republican Action Party. In this view, federalist instruments should be replaced by mixed structures, some centralizing certain competences and others decentralizing those that could be more effectively administered by regions and municipalities.[12]

Claudio Sánchez-Albornoz's objection to a decentralized state was answered by Manuel Azaña: the republican project did not leave anyone out but was a means for agreement between opposite points of views about how to govern the country. Azaña believed that none of those perspectives should end in the failure of the republican Constitution, which was for him the political priority of the country. This statement apparently contradicted the use of ideological majorities to build alliances almost exclusively between parties with programmatic affinities. Any agreement between parliamentary groups should respect the heterogeneity of parliament, even if that entailed giving up some party principles (DSCCRE, 16 September 1931: 966).

Niceto Alcalá-Zamora's answer to Azaña stressed a different concern. Disagreements about a series of constitutional issues that affected the state made it almost impossible to strike any serious deal between parties. The ongoing debate showed, according to Alcalá-Zamora, that those differences, far from being gradually toned down, were the consequence of partisanship and sectarianism. The disagreements surrounding the issues of education, property rights, the rights of Catholics, the compatibility of the two chambers, and the choice between a unitary and a federal state made it clear that the MPs were having serious difficulties in reaching agreements (DSCCRE, 17 September 1931: 984).

In that same speech, Alcalá-Zamora argued about the new features of the state when compared to those of the recent past. To him, that state should be understood beyond regionalism and rationalism to comply with the new demands of society, where international law, the agreement between states, and the will to improve the country were decisive. Properly responding to the needs of that new state was the most pressing issue for MPs (DSCCRE, 17 September 1931: 986).

Niceto Alcalá-Zamora appealed to civil law to justify the diversity of Spain and to clarify how the differences between regions should be resolved in the Constitution. He hardly conceived of the federal regime as a feasible system for Spain, even though he accepted decentralization as a republican commitment in order to establish some distance from the conservative and monarchic trends of previous constitutionalist efforts. Rather than being a semi-federal or integral regime, Alcalá-Zamora proposed the municipalities as a territorial model for Spain. He then considered that the balance between regional competences on the one hand, and central or state competences on the other, would be fair (DSCCRE, 23 September 1931: 1091).

Later on, in that same speech, the President of the Spanish Republic emphasized the limits to regional autonomy in order to distinguish the functions of the public power. The state, in his view, could never delegate some of its competences without risking the unity and stability of the democratic regime.

To dispense with the central state would end in the inability of the state to rule and to punish the illegalities perpetrated by individuals or institutions: "The central power does not inhibit itself, does not disarm itself, does not allow that within the national territory isolated jurisdictions can be formed [...]".[13]

The writer and professor Luis de Zulueta, of the Republican Action Party, argued in favour of the capacity of representatives to understand the crucial and hazardous moment that Spain was facing. A model opposed to regional and old-fashioned centralist aspirations was to him needed to produce a constitutional text where territorial aspirations were acknowledged. To make sensible proposals and decisions, notwithstanding ideological biases, was the fundamental task of MPs. Caution was entailed not just when addressing any parliamentary issue, but was itself a national necessity in times of uncertainty (DSCCRE, 23 September 1931: 1102).

Conversely, according to Juan Castrillo of the Progressive Republican Party, some measures should be left aside from the Constitution. Ordinary laws would make those freedoms enshrined in the constitutional text effective after the passage of the Constitution, but not before. His argument stressed that issues dealing with trade unions and associations added unnecessary complexities to constitution-making. To include them in the Constitution would entail subordinating the Constitution to individual group interests (DSCCRE, 1 October 1931: 1374).

The relationship between the state and trade unions was relevant to moderate right-wing parties. Guaranteeing labour rights to civil servants while avoiding the subsequent threat to the stable management of the daily institutional functions of the state seemed unlikely, even for moderate left-wing MPs. In that regard, Juan Castrillo challenged the rest of representatives in parliament: "Can [a state] within it give life to a trade union organization of civil servants whose ideological leaning, whose roots and whose reason for existing is exclusively to transform the state itself?" (DSCCRE, 1 October 1931: 1374).[14]

If the existence of group interests in Spain was already an issue for the stability of the country, including civil servants in the same regime as other trade unions would endanger the functions of the state and the independence of its members. Public emergencies would threaten the daily life of the nation, since the state lacked any means to counteract the pressure of the trade unions of civil servants. In that light, it is not surprising that a range of political parties almost unanimously rejected the right to trade union affiliation for civil servants. In this case, the protection of that right was deemed inefficient and a potential threat to state institutions.

2.9 Concluding Remarks

The contrast of the idea of social rights enshrined in the Weimar Constitution and its influence on the Spanish Constitution of 1931 has been the initial thread of this analysis. The first part of this chapter argued that the adaptation of social and economic laws to constitutional rules was crucial to determining

the validity of the new laws. The Constitution of 1931 imitated that aspect of the Weimar Constitution of 1919. The Republic of Weimar and the Spanish Second Republic triggered a deep process of institutional and social democratization using a similar vocabulary of rights, both in each of the constitutional debates and in the constitutions finally adopted. A number of legal scholars and professional politicians who were involved in the constitutional debate of 1931 were also acquainted with the modern theories of constitutional law. Professors of state theory (roughly equivalent to constitutional law) such as Manuel Martínez Pedroso, Eduardo Luis Lloréns, Adolfo Posada, Nicolás Pérez Serrano, and Luis Recaséns Siches had a large influence on the Spanish constituent process. They, together with other legal scholars that did not take part in the constitutional process, brought to Spain the legal and intellectual legacy of the Weimar Republic.

The second part has shown how the Republican Action Party and the Progressive Republican Party found opportunities to agree on reformist policies to conciliate the clash between right-wing parties and left-wing parties. It has outlined how, in the end, the mutual distrust of their leaders hindered any chance of long-term agreements to prevent the radicalization of parties. Manuel Azaña, leader of the Republican Action Party, and Niceto Alcalá-Zamora, leader of the Progressive Republican Party, disagreed on the aims of their parties in the constituent process. This ideological clash reached its peak in the discussions around the separation of church and state.

Notes

1 Weimar Constitution, art. 146.
2 Manuel Martínez Pedroso was member of the Legal Advisory Commission that prepared the Preliminary Constitutional Draft that was rejected in parliament, and an unelected candidate of the Spanish Socialist Workers' Party in the general election of 1931. His training in European constitutionalism was highly indebted to Hans Kelsen's theories.
3 Lloréns was a liberal-conservative Germanophile professor trained in German constitutionalism. He was in favour of the legal withdrawal of social rights in Spain, against the interwar constitutions, and was especially opposed to the Weimar Constitution (Ayala, Lloréns and Pérez Serrano 2011: LVI–LVII).
4 Adolfo Posada and Manuel Martínez Pedroso belonged to the Legal Advisory Commission that prepared the Preliminary Constitutional Draft.
5 In 1928, Luis Recaséns Siches, an influential legal scholar among the MPs in the Constituent Assembly of 1931, and Justino de Azcárate translated into Spanish an unpublished work by Hans Kelsen with the title *Compendio de teoría general del Estado* (*Compedium of General Theory of the State*). Recaséns Siches was in fact a student at the University of Vienna under the supervision of Hans Kelsen, Fritz Schreier, Felix Kaufmann, and Robert Reininger (Rivaya 2000: 153).
6 The legally trained economist Manuel Sánchez Sarto translated Carl Schmitt's *Der Hüter der Verfassung* with an incorrect title as *La defensa de la Constitución* in 1931, the same year it was originally published in German (Guillén Kalle 2018: 25). It is reasonable to think that the text circulated among some MPs acquainted with German law.

7 Francisco Ayala translated Carl Schmitt's *Verfassungslehre* (*Constitutional Theory*) into Spanish in 1934, six years after it was originally published in German.

8 Two examples of this insufficient approach can be found in Manuel Tuñón de Lara (1991). 'El sistema de partidos en 1931–1933', *Historia Contemporánea*, 6, 59–84 and Santiago Varela Díaz (1976). *El sistema de partidos en las Cortes de la Segunda República española* (Doctoral Thesis). Madrid: Universidad Complutense de Madrid.

9 The Republican Alliance (*Alianza Republicana*) was a political platform created in February 1926. The Radical Republican Party of Alejandro Lerroux, the Federal Republican Party, the embryonic Republican Action Party, and prominent Catalan politicians such as Marcelino Domingo and Lluís Companys, later on leaders of the Radical Socialist Republican Party and the Republican Left of Catalonia, respectively, were all originally integrated as members of the Republican Alliance.

10 Dynastic parties in Spain supported one of the branches of the Bourbon dynasty as legitimate. Their roots in national politics began roughly in 1833, and they had both conservative and liberal leanings.

11 "El liberalismo es una disposición del ánimo, o un concepto de la mente, o una doctrina política; pero la libertad es un concepto preciso, técnico, jurídico y político con que el Gobierno tiene que gobernar, no con el concepto de liberalismo" (Alvar 1987: 42).

12 The idea of strengthening the municipalities in the territorial organization of the state is something that all right-wing political parties agreed on, and that Sánchez-Albornoz also assumed. Conservative and moderate MPs thought of the local regimes as the most effective instruments to respond to the needs of towns and cities and, at the same time, to balance the excessive power handed to the regional governments.

13 "El Poder central no se inhibe, no se desarma, no permite que dentro del territorio nacional se formen jurisdicciones exentas [...]" (DSCCRE, 23 September 1931: 1092).

14 "¿Puede dar vida en su propio seno a una organización sindical de funcionarios, cuya tendencia ideológica, cuya raíz y cuya razón de existencia es exclusivamente transformar el propio Estado?" (DSCCRE, 1 October 1931: 1374).

1 Debating the Meanings of a Democratic State (August to October 1931)

This chapter begins with a presentation of the party system of the Constituent Assembly, by distinguishing the groups represented in parliament and their ideologies. It summarizes the territorial organization of the state finally adopted. Together with it, this chapter calls attention to the conceptual and scholarly disagreements arisen when the views of democratic state were debated. Parliament and the Constitution were the pillars of the republican democracy. Concepts such as state, reform, and revolution were handed over by the MPs in their deliberations. Representatives spoke about republican democracy in terms of revolution. The idea of reform was equated with the inefficient reformist programme of the political parties of the Bourbon Restoration (1874–1931).

Two concepts of state, with significant ideological connotations, were debated during almost the entire constitutional debate. These two concepts were roughly equivalent to the positions of left-wing and right-wing parties, respectively. The relationship between a republican state and what was presented by left-wing and centrist parliamentarians as a 'strengthened state' became commonplace. As a consequence of the interplay of state, Constitution and Parliament, moderate left-wing and moderate right-wing political parties understood these concepts as inseparable from each other and the key to the success of the nascent republican democracy. In fact, the idea of democratic constitution was interpreted as the only means to control the administration and to protect parliamentary sovereignty against any form of authoritarianism. Rationalized parliamentarism was connected to the reformist language of the Constituent Assembly.

As a result of these ideological controversies, the political vocabulary of the representatives reconceptualized ideas such as state, sovereignty, reform, revolution, and freedom of conscience. The debate over the meanings of these concepts was not just isolated contributions of individual MPs. In most cases, these ideas were vital to understanding the conceptual background of disagreements on crucial institutional regulations, such as the limits to public powers, the pace of political, economic, and social reforms, or the defence of the ideals of religious freedom.

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1.1 Ideological Affinities in a Fragmented Parliament

The Constitution of the Spanish Second Republic drafted by the constituent members in 1931 was often portrayed by themselves as a sign of the popular longing for a democratic state. MPs, with some remarkable exceptions among agrarians and traditionalists, believed that a constitutional text was the most suitable tool to revamp state and society. Parliament was taken as the institution that could bring Spain closer to the new European culture of parliamentary politics inspired by Germany, Austria, France, and Westminster to varying degrees.[1]

Regarding the system of parties which resulted from the general election of 28 June 1931, the large number of seats obtained by the republican centre and left-wing parties made possible a heterogeneous coalition government, provisional until 15 December 1931. The cabinet included MPs of the Spanish Socialist Workers' Party (*Partido Socialista Obrero Español*), the left-wing Radical Socialist Republican Party (*Partido Republicano Radical Socialista*), the regional, left-wing party Autonomous Galician Republican Organization (*Organización Republicana Gallega Autónoma*), the centre-left Republican Action Party (*Acción Republicana*), the centrist Radical Republican Party (*Partido Republicano Radical*), the liberal Catalan Republican Action (*Acció Catalana Republicana*), and the centre-right Progressive Republican Party (*Partido Republicano Progresista*). In this somewhat peculiar situation, almost 90% of the elected representatives either belonged to the coalition government or were allied to it (Juliá 2009: 38). Nevertheless, the combination of lists of candidates of parties in a same electoral coalition group and changing alliances makes it difficult to itemize the number of votes obtained by each one of the political parties that competed in the general election (Tusell 1982: 77).

Taking into account the ideological plurality of Parliament, a feasible taxonomy of parties from right to left reveals the four ideological groupings already mentioned in the introduction: democratic socialism, radicalism, classical liberalism, and conservative traditionalism.[2] Democratic socialism in Spain was characterized by its acceptance of democratic procedures and institutions, a close connection to trade unions, and a heterogeneous conception of how society should be developed through deep economic and political transformations in line with a socialist ideology. Centre and left-wing radicalism aimed to secularize all aspects of the social life of the country in order to accomplish social and economic reforms, following the model of France's republicanism. Classical liberalism stood for a conception of individual rights and constitutionalism, believing them to be the most valuable aspects of nineteenth-century politics. Conservative traditionalism emphasized the Catholic tradition of Spain and property rights over the promotion of gradual social and economic changes, which MPs of this ideology often regarded as opposed to the history of Spain.

The Spanish Socialist Workers' Party, the Republican Action Party, and the Socialist Union of Catalonia (*Unió Socialista de Catalunya*) should be classified as belonging to the first group above. Those tending towards radicalism[3] included

a centrist party, the Radical Republican Party, and left-wing groups such as the Radical Socialist Republican Party, the Republican Left of Catalonia (*Esquerra Republicana de Catalunya*), the Autonomous Galician Republican Organization, the Federal Republican Party (*Partido Republicano Federal*), the Extreme Federal Left (*Extrema Izquierda Federal*),[4] and the Galician Party (*Partido Galeguista*). Classical liberalism was represented by the Progressive Republican Party, the Group at the Service of the Republic (*Agrupación al Servicio de la República*), the Liberal Democratic Republican Party (*Partido Republicano Liberal Demócrata*), the Regionalist League (*Lliga Regionalista*), the Centre Republican Party (*Partido Republicano de Centro*),[5] the Catalan Republican Action, and some moderate members of the Popular Agrarian Minority (*Minoría Popular Agraria*). Conservative traditionalism had the support of the vast majority of MPs from the Popular Agrarian Minority, the National Action Party (*Acción Nacional*), the Basque Nationalist Party (*Partido Nacionalista Vasco*), the Traditionalist Communion (*Comunión Tradicionalista*), and the National Monarchic Union (*Unión Monárquica Nacional*).

1.2 The Territorial Organization of the State

According to historian José Luis de la Granja, there were three political groups regarding the territorial organization of Spain in the Constituent Assembly of 1931: Unitarian right, socialists, and regionalists together with nationalists (de la Granja 1981: 87–94). Still this distinction seems imprecise since it leaves out the internal disagreements between left-wing and right-wing parties. Representatives such as the Catholic independent Ángel Ossorio y Gallardo, Claudio Sánchez-Albornoz of the Republican Action Party, and Juan Castrillo of the Progressive Republican Party, among others, accepted the 'integral state' as a middle path to prevent the excesses of both federalism and an exacerbated centralism exclusively handed to the central administration of the state. For instance, Ossorio y Gallardo acknowledged that in some regions, such as Catalonia, there were 'passionate' demands for self-government (*autonomía*) which could not be denied without political costs (Ossorio y Gallardo 1975: 172). The integral state seemed a feasible option to partly satisfy those claims.

The Constitution of 1931 allowed provinces to form regions between them (Simón Tobalina 1981: 79). It is remarkable that the Constitution of 1931 opened up the possibility of strengthening regional demands in the long run, as article 11 reflected. Despite that fact, Basque, Catalan, and Galician nationalist parties were unwilling to accept that the regional autonomy during the Spanish Second Republic was to not extend the regime of territorial autonomy eased by the integral state to other regions (Núñez Seixas 2004: 211). Further, the Spanish *Cortes* refused to accept Spain as federation in any sense (Hebbert 1987: 246).

In that atmosphere of ideological diversity, the constituent period of the Spanish Second Republic started on 27 August 1931, when Luis Jiménez de Asúa, socialist MP and leader of the Constitutional Commission, delivered

his speech to present the Constitutional Draft (DSCCRE, 27 August 1931: 642–648), and ended on 9 December of that same year with the passing of the Constitution. Jiménez de Asúa presented the 'integral state' as a choice beyond both unitarianism and federalism "to establish a great integral state in which the regions, together with greater Spain, are compatible with each other".[6]

1.3 Conceptual and Scholarly Disputes in the Constituent Assembly

A series of concepts used by MPs acquired a special relevance: parliament, representation, freedom, and equality. The uses of these terms with rhetorical aims denoted changes in their meanings: they appeared together with new nouns and adjectives, which pointed out how Parliament had become the testing ground for new ideas developed in European interwar politics (Álvarez Tardío 2011: 660). Exploring the context of the constitutional debate of the Second Republic entails briefly explaining the parliamentary model in which it took place. The Spanish Parliament was formed on a model of rationalized parliamentarism as promoted by interwar European constitutions, especially by the Weimar Constitution of 1919. Both the Spanish Constitution of 1931 and the German Constitution of 1919 established institutions to distribute the powers of the state (courts of justice, Parliament, government, president of the republic, commissions, legal experts, and a strengthened department of the treasury, among others), seeing them as necessary elements for rebuilding the state in a democratic sense.

This was a model of rationalized constitutionalism directly inherited from the Weimar Constitution (Demarchi 2012: 630). That constitutionalism vindicated constitutions and national parliaments as instruments to protect citizens' rights through democratic means. It excluded the alternative of positioning ordinary laws as superseding the Constitution and prevented the executive power from encroaching on the competences of parliamentary majorities. The words of the agrarian MP Ramón Molina Nieto reflected that the rationalization of power devised in the Constitutional Draft was a novelty in the Spanish politics of the 1930s: "[…] if this [the rationalization of power] is the expression of the law by which a people rules itself, why was it not understood in such a way in the past?".[7]

Spanish constituent members aimed to rationalize the ideas of parliament and constitution. Rules, especially constitutional ones, should detail how each one of the tasks of the state would be carried out by specific institutions and, together with it, Parliament and the Constitution should control and limit the scope of governmental power. Specifically, the Constitution of 1931 included an amendment procedure and the legal principles to regulate presidential power. The novelty of this parliamentary model was to inscribe the constitution regulations, which until that time were only included in ordinary laws. In practice, that procedure bestowed legal priority on the Constitution over any other kind of rules (Varela Suanzes-Carpegna [2007] 2014: 39–40).

In the Spanish constitutional debate, the arguments of Hans Kelsen in favour of the role of constitutional courts during the constitution-making process, a system that gave rise to the Constitution of Austria, were occasionally repeated by reformist MPs who regarded the shaping of a strong government as something that should occur prior to defining state institutions in detail. In particular, the Republican Action Party, the Spanish Socialist Workers' Party, and the Radical Socialist Republican Party defended the need for new state policies, very often without clarifying their organs and constitutional competences.

Curiously, despite their already well-known contributions, including those in Spain, legal scholars such as Hermann Heller and Rudolf Smend were not mentioned during the constitutional sessions, although this does not mean that their doctrines were unknown to the Spanish MPs who were also legal scholars. For instance, Smend's idea of 'integration by Constitution' that conceived of the existence of the 'state as a fact' and the law 'as the normative element of the factual integration' is open to interpretation (Lepsius 2008: 264). Yet, it had a great influence over those MPs who were in favour of an integral state. Smend characterized an idea of state that, in practice, made the social life of a nation indistinguishable from the activity of the state.

Only a dynamic conception of the mutual dependence between the community and individuals allowed for the idea of state integration (Martín Martín 2018: 105). However, it is necessary to distinguish the theory of the state developed by Eduardo Luis Lloréns and his use of the term *integration* from the meaning given to that term by Rudolf Smend. Even if it is true that for both authors the idea of integration began from the concept of a social structure, according to Smend the social realm was always previous to the legal system. The idea of integration defended by Smend entailed that the social unity of individuals with diverse beliefs was a unifying element, in a dialectical sense. But for Lloréns it seemed to be just the opposite: an aspect of social clash that could split society up (Martín Martín 2018: 109–110).

1.4 Parliament and Constitution: Two Axes of the Republican State

Regarding its institutional structure, the Constitution of 1931 put into practice a semi-presidentialist system. Thus, Constitution and parliament cooperated with each other to limit the power of the president of the republic. Parliament informed the Constitution, whereas the Constitution regulated the functions of parliamentary politics and lawmaking. Such a model of parliamentary politics was understood as an instrument to define and to protect civil and political rights. And at the same time, useful to extend social and economic rights. This idea broke away from the constitutional models of nineteenth-century Spain (Varela Suanzes-Carpegna [2007] 2014: 118).

Disagreements between the Spanish Socialist Workers' Party and the Radical Republican Party hampered the chances to obtain a sufficient number of votes to endorse certain motions. The Regionalist League of Catalonia had a

distinguished political tradition in Catalonia, but in the end, it became a group merely needed to pass constitutional articles. Actually, the parliamentary support of the 33 MPs ascribed to the Republican Left of Catalonia allowed the Spanish Socialist Workers' Party and the Republican Action Party to finally give expression to part of their electoral programmes in the Constitution.

Furthermore, the quarrel between socialists and radical socialists left room for an unexpected shift by the latter to endorse the political longing for ambitious reforms of federalists (Varela Díaz 1976: 46–47). The idea of the integral state was not accepted as quickly as socialist MPs wished. Julián Besteiro, of the Spanish Socialist Workers' Party, proposed a report to harmonize those aspects which some minority groups regarded as important: the decentralization of competences and regional autonomy. That report attempted to satisfy the demands of the Republican Left of Catalonia without specifying the competences that could be delegated to the regions. In return, socialist MPs obtained the votes of peripheral nationalist and regionalist parties to pass some of the most contentious articles of the Constitutional Draft (Gil Pecharromán 2002: 63–64).

Nonetheless, during the years of the Spanish Second Republic, Besteiro distrusted the involvement of the Spanish Socialist Workers' Party in coalition governments and refused any revolutionary means to seize political power (Perfecto García 2017: 116). That stance contradicted the wishes of MPs from nationalist parties and the Radical Socialist Republican Party.

In the course of the constitutional debate, the concepts of state, reform, and revolution were used sometimes as if they were incompatible with a non-democratic conception of institutions. In a sense, in the speeches of socialists and MPs of the Republican Action Party, these concepts were transformed into instruments to strengthen democracy against its enemies. Building up the state also meant protecting institutions against misuse and balancing them with each other. For moderate right-wing parties such as the Progressive Republican Party and the Liberal Democratic Republican Party, only a very specific use of revolution was acceptable: it was the democratic and peaceful will of citizens that made democracy possible.

1.5 State, Reform, and Revolution: Three Central Concepts Shaping the Democratic Republican Regime

Linking the concepts of reform and revolution with the idea of rebuilding the state explains how they evolved in a very short time-span. The connections between the concepts of the state and revolution help to explain the accelerated process of change in political language that took place from the end of the 1920s to 1931. The concepts of state, revolution, and reform are deeply interconnected. They are thus addressed together in order to understand their semantic relationships.

Between 1898, when Spain lost its last colonial possessions (Cuba, Puerto Rico, and the Philippines), and 1923, when Primo de Rivera's dictatorship

began, the incomplete liberal rule of law designed by the conservative leader Antonio Cánovas del Castillo in the second half of the nineteenth century faced a deep crisis. In the nascent republican democracy, the idea of a republic was seen as the only possible model of democracy for Spain, as opposed to a monarchy that had been discredited due to its support of Miguel Primo de Rivera's dictatorship. As a consequence, the new semantic field of the concept of revolution was linked to terms such as democracy, constituent power, economy, society, liberalism, and justice. As the nineteenth century passed, the meanings of reform and revolution in Spain followed divergent paths: "In a few decades both terms shifted from a practical synonymy to an almost complete antonymy" (Fernández Sebastián 2002: 598). Each term, reform and revolution, had its own history from the 1850s onwards, even if both shared a core meaning until the last third of the nineteenth century.

At the beginning of the twentieth century in Spain, the term revolution had an ambiguous sense. On the one hand, as Albacete Ezcurra makes plain according to Vicente Santamaría de Paredes, liberal minister in 1905 and 1906, the idea of revolution denoted an "abnormal change in institutions verified by popular classes through force, with or without the help of the army". On the other hand, in parallel, republican groups quickly adopted that new vocabulary, discarding the use of force as a necessary component of revolution and adding instead the rise of a potential constituent power (Albacete Ezcurra 2006: 73). From 1917 onwards, the use of expressions such as constituent power, constitutional revision, radical change, and constitutional reform was widespread.

Indeed, the former liberal minister Santamaría de Paredes was the main contributor to the idea of the rule of law (*estado de derecho*) in the Spanish academia. He argued that rule of law means "that society [is] organized to declare law as supreme and indisputable, to fulfil it in relationship with any other ends in life, and to do so by coercion when it is not carried out voluntarily" (Varela Suanzes-Carpegna 2006: 25). His idea fits with the understanding of the concept that a majority of republican parties endorsed in the 1920s and 1930s. However, that distinct expression, the rule of law (*estado de derecho*), was not explicitly used in the constitutional debate of 1931, in contrast to the use of the term *Rechtsstaat* in the constitutional discussions at Weimar.

In 1918, Álvaro de Albornoz, who would become member of the Radical Socialist Republican Party in the Constituent Assembly, stated: "We have to deserve revolution, and that entails the inspiration of confidence in the general opinion. The first thing needed is a political programme" (Albornoz 1918: 263). Thus, revolution took on the sense of overcoming entrenched power through democratic means, with the support of the majority of citizens. That is the sense in which a number of constituent MPs in 1931, both from the left and centre, understood the democratic process.

Under these circumstances, republican groups gradually arose in Spanish society, although intermittently. These groups, along with the renewed movements of reformist federalism in Catalonia and some other parts of Spain that took up the ideas of the most prominent federalist in Spanish history, Francisco

Pi i Margall, increased the heterogeneity of pro-republican movements. A minority group in Parliament, the Democratic Federal Republican Party, which took the old name of a leading political party during the Spanish First Republic (1873–1874), worked as a hinge party, often supporting the proposals of other left-wing republicans. However, federalism was seen by centrist and right-wing parties as a potential threat to the unity of Spain. According to them, it would have meant the loss of the institutional power needed to keep separatist trends under control in Catalonia and the Basque Country.

Although appeals to the constituent power and for a new representative assembly that would reflect the national interests and aspirations of the Spanish people did not always correlate with a republican form of government, the pressure in favour of a constituent assembly – or at least the opening of a new political period – had not been seen as a revolutionary process. However, although the idea of revolution had been controversial since the nineteenth century, the unfavourable reaction to Miguel Primo de Rivera's dictatorship provoked immediate social and political demands for democracy that found in the idea of revolution a positive concept. Presumably for the first time in the twentieth century, the radical socialists with orthodox Marxist roots and anarchists were not the only groups calling for a revolution in Spain.

Opponents to Primo de Rivera and his authoritarian drift unleashed a resignified political vocabulary in which revolution took up a prominent place. The dictatorship period was characterized by a new idea of the state. First, it entailed a break with the system of parties of the Bourbon Restoration. Second, Primo de Rivera placed the military at the peak of the state (in practice by identifying the military with the state). Third, the regime reshaped an idea of the fatherland according to which anything considered an attack on its unity should be punished. Finally, Primo's cabinet ministers regarded the laws of the state as the only true representative of the nation, dismissing any reference to parliamentary representation (Quiroga 2007: 44–45).

The crisis of the traditional concept of reform provoked a euphemistic turn favourable to the idea of revolution (Fuentes 2008a: 1033). As a consequence, the new uses of revolution and democracy began to fill a gap in the political language. MPs, intellectuals, and journalists with republican leanings identified republic with democracy. To them, without a republican system, it would be impossible to attain democracy (Ramírez 1991: 49). Only a few years before 1928, when Primo de Rivera's dictatorship was not yet discredited, fulfilling that aspiration seemed unlikely.

During the first two months of constitutional debate, the Spanish Parliament (*Cortes*) witnessed the birth of a renewed political vocabulary that seemed close to interwar European constitutionalism and was aimed to break with the Spanish parliamentary tradition of the Bourbon Restoration: equality, constitutional guarantees, the social rule of law, and parliamentary democracy were some of the most commonly used expressions. As the dictionary entries for democracy, state, and parliamentarism in the *Diccionario político y social del siglo XX español* (2008) edited by Javier Fernández Sebastián and Juan Francisco Fuentes show,

the terms shaping the political debates were not totally new in the political history of Spain and were generally well-known, but their use in institutional language was limited until then. The term state, in perhaps the clearest example, was reinvigorated as a concept opposed to the anachronistic state of Miguel Primo de Rivera's dictatorship, which was deemed antidemocratic.

As the regime changed from a monarchic state to a democratic republic, the language of revolution radically changed. It expressed, primarily, a break with the recent past and monarchic institutions, but it was also a rhetorical element of the revolutionary liberal Constitution of Cádiz of 1812. In fact, that rhetorical change made possible a conceptual innovation in 1931. With that evolved concept of revolution, MPs made use of a political vocabulary that, in spite of maintaining the same or very similar words to those promised and expected by republican supporters (popular sovereignty, parliamentary sovereignty, advanced constitution, freedom, educational reform, modernization, and reinforcement of the state, among others expressions), made explicit a reformist practice within government. However, the Constitution of 1812 had little influence on the actual wording of the Constitution of 1931.

Working against this rhetorical strategy, monarchic groups equated revolution with social disorder and violence. Conservative politicians distrusted republican optimism and stressed gradual reforms: some of them became loyal to the republican regime, some others accepted it with scepticism, and a few remained loyal to King Alfonso XIII. Nevertheless, before the proclamation of the Republic in April 1931, some monarchic supporters launched a propaganda campaign against their political rivals, mainly republicans. Manifestos and meetings were the most common methods of waging this campaign.

Even though some monarchic newspapers intensified their damaging remarks on the communist threat that a republican system could represent (for instance, the Russian Revolution was used as an argument by associating Niceto Alcalá-Zamora with Aleksándr Kérensky), it is noteworthy that pro-republican activity reached larger audiences and worked much more effectively in urban areas (Cruz Martínez 2014: 72–73).

Indeed, liberal and conservative parties suffered an electoral setback in the local elections of April 1931 that gave rise to the Second Republic. Only those parties whose leaders publicly showed their loyalty to the principles of the nascent democratic republic played a role in the coalition government. Miguel Maura and Niceto Alcalá-Zamora, who in April 1931 belonged to the right-wing Progressive Republican Party, were as MPs willing to endorse reformist policies during the first republican government.[8] They were virtually the only two public figures of liberal and conservative ideologies able to lead the process of democracy through parliamentary means.

1.6 Republican Democracy as a Revolutionary Regime

The political vocabulary underwent a defining transformation. The ideas of revolution and republic were combined in the invention of a republican language.

As the left-wing republican leader Manuel Azaña noted in 1930, that popular revolution was mainly spread in gatherings, meetings, cafes, and newspapers in Madrid (Azaña 1978: 55). The term revolutionary was also applied as an alternative wording to the Provisional Government of the Second Republic formed on 14 April 1931. Until a general election was held on 28 June 1931, revolution was used as a keyword to distinguish republican supporters from monarchic partisans. The president of the republic, Alcalá-Zamora, argued that the revolutionary committee of the republic, formed before the provisional government replaced it, avoided anarchy by either compromising or solving differences through agreements (Alcalá-Zamora 1981: 37).

This mobilization of diverse groups, rather than any deep roots of republicanism in society, was likely the decisive reason for the success of the Republic (Alía Miranda 2018: 79). At least in 1931, most republicans regarded the new regime as a revolutionary regime (Álvarez Tardío 2005: 51), although they wanted to convey incompatible things when using that term: the moderate left-wing saw revolution as an opportunity to revamp the state through institutional reforms backed by the Spanish people, whereas left-wing radicals thought of the revolutionary process as an instrument to directly transform people's lives through any political means available.

One year before, in 1930, Luis Araquistáin, of the Spanish Socialist Workers' Party, described what a successful revolution should consist of according to democratic socialism: "A revolution in the streets will not be fruitful if before it – or after it – a revolution does not take place in the conscience" (Araquistáin 1930: 17). According to the electoral programme of the Spanish Socialist Workers' Party, the Constitution had to be vague enough to make it more adaptable (Artola [1974] 1991b: 450). Both the public statements by political leaders and the official documents of the party clarified the broad meaning attributed to the republican and democratic revolution: political, social, economic, and educational.

To organize that ambitious revolution demanded a scheduled plan of reform based on open principles expressed through a constitutional text, that is to say, a revolution based on republican legality. The constituent representatives wished to avoid empty appeals to revolution, aiming instead to strengthen the more effective appeals to it as a peaceful process to rebuild the state from within. Left-wing MPs often opposed classical liberalism's scheme of basic individual liberties by defending the broadening of social rights and other egalitarian policies in the economic field, which they thought had been ignored by moderate right-wing's leaders.

During the so-called 'Social-Azañist Biennium' (December 1931–September 1933), a complex set of reforms was implemented, usually attending to their real chances of success in the medium-term. Military changes led by Manuel Azaña as *ministro de guerra* (equivalent to minister of defence), the Agrarian Reform Law of 1932, and the labour laws promoted by the socialist leader Francisco Largo Caballero (who described his own reforms as "the most revolutionary laws that had been made") can be seen as signifiers of this vocabulary (Fuentes

2008b: 1071–1073). MP José Ortega y Gasset highlighted in the newspaper *Crisol* how the government tried to conceal its reformist policies when invoking the language of revolution. Nevertheless, in one of his speeches in Parliament (14 July 1931), Alcalá-Zamora of the Progressive Republican Party, seen to be the most prominent conservative figure of that time,[9] linked the term revolution to the liberal tradition of the Spanish nineteenth century (Fuentes 2008b: 1073). Alcalá-Zamora aimed both to defend institutional revolution of a democratic kind, and to link centre-right representatives to reformist endeavours, demonstrating the ideological commitment of moderate political parties to the liberal roots of the Constitution of 1812.

It is clear that in the official discourse of republican politicians, the idea of revolution took on a fully democratic sense identified with the birth of the Spanish Second Republic. According to Manuel Azaña's speech in Barcelona in March 1930,[10] a democratic revolution should protect everyone against reactionary historical forces, which were to him the 'illness' of Spain. He thought that the state was undergoing a deep transformation to represent the will of its citizens and to restore those freedoms violated by the dictatorship (Azaña 1978: 268).

There were also partisan uses of the idea of revolution that became visible at certain moments of the deliberations. That was the case when constituent MPs attempted to portray their ideas of how to build a new democratic state on the basis of social justice. Their hopes for a republican democracy were proportional to their distrust of reactionary forces such as fascism, Carlism,[11] and the minority monarchic groups loyal to King Alfonso XIII.

The revolutionary faith, common to other interwar European projects, and the questioning of classical liberalism were two decisive ideological aspects of the republican version of democracy as understood in 1931 (Álvarez Tardío 2005: 34). The optimistic views of republican groups accentuated the democratic nature of the revolution, characterized by new positive nuances of peaceful change and future reforms to replace the dictatorship, which was regarded as a spent force opposed to popular sovereignty.

Along with the above-mentioned process, revolution was used instead of reform as the most common term to describe political changes and the new public policies. During the Spanish Second Republic, the term reform was used by some moderate right-wing representatives on only a few public occasions. The ending of the monarchy in 1931 and the subsequent legitimacy of the republican democracy devalued the idea of reform. The monarchic state was regarded as unreformable. Reform was no longer a keyword in national politics (Fuentes 2008a: 1033). In 1931, the term reform had lost part of its appeal as a positive term. Its link to possibilism and gradualism remained, but both ideas were regarded by left-wing and centrist groups as contrary to the non-violent ideal of revolution embodied by the republican democracy.

Furthermore, the dynamism of concepts such as revolution, counter-revolution, and democracy was a sign of the inclusion of these terms in a standardized political vocabulary. They were reinterpreted during the republican

period (Trullén Floría 2016: 41), and almost every relevant politician in the 1930s adopted this new political vocabulary. As an illustration of this trend, Azaña identified the rise of the Spanish Second Republic as a revolutionary event. In his speech before Catalonian republican supporters in March 1930, he defended revolution as a first step, and the Republic as the next, towards the democratic transformation of the country. According to him, if the republican democracy failed, a revolution would be legitimate again (Juliá 1990: 66).

On 27 August, when the constitutional debate officially began, the agrarian MP Ramón Molina Nieto argued in favour of individual liberties as being above any government action, and reaching further than whatever revolutionary process could be imagined because "the essence of authority, whose origin, because it is higher and divine, cannot be destroyed by any revolutionary principle".[12]

Claudio Sánchez-Albornoz, of the Republican Action Party, voiced concerned disapproval to Molina Nieto's remarks. Revolution seemed to be something demanded and the result of the efforts of diverse groups in society that found common ground in a democratic republic. Neither divine nor civil reasons could diminish the revolutionary political sense of the institutions of the future. That was the main position of the moderate left-wing MPs of the Republican Action Party "since it was founded, a party convening republican forces to make the revolution [...] working also as a link with the revolutionary forces that aim to continue the revolution which has barely begun".[13]

Conversely, the agrarian MP José María Lamamié de Clairac associated the consequences of revolution with disorder, extremism, and institutional breakdown. His minority party was one of the few groups that refused any positive connotation of the idea of revolution. Lamamié believed revolution to be contrary to progress, violent in nature, a threat against stability, and representing the collapse of traditional institutions (DSCCRE, 28 August 1931: 666).

Other similar voices, such as that of the priest Basilio Álvarez Rodríguez of the Radical Republican Party, refuted the ideal of the revolution as the conscience of the people, as left-wing republicans had endorsed: "There is, gentlemen, one terrible thing in life, which is the revolution of consciences, and that one you are trying to unleash".[14] Conscience was to Álvarez Rodríguez a private sphere of life which cannot be the object of ideological manipulation by the state. However, he qualified his words in that same speech to say that republican political forces would not do so due to their desire for dialogue (DSCCRE, 28 August 1931: 672).

A few days later, the socialist Fernando de los Ríos, minister of justice, argued in favour of a transactional constitution between parties and ideologies. According to his view, the revolution was the result of confronting ideas in the political arena. It succeeded because of the electoral triumph of republican political groups. Left-wing political parties such as the Spanish Socialist Workers' Party were aware of the potentialities of the revolutionary discourse. As a consequence, transaction and revolution could not be rival ideas because they represented the agreement of republican groups on the same political project (DSCCRE, 3 September 1931: 751).

1.7 The Language of Reformism

The new republican democracy was led by intellectuals from its very beginning (Hernández Gil 1983: 17). The intellectual and politician José Ortega y Gasset, of the Group at the Service of the Republic, addressed the future of the democratic republic through the vocabulary of reform, refusing to use the idea of revolution, unlike socialists and radical socialist MPs: "The Law is always more or less reform, and therefore an arouser of new realities".[15] This passage shows that Ortega was one of the few republican MPs who avoided the term revolution when talking about the political strategies leading to a democratic republic. To him, reform remained a valuable term which did not contradict the republican project of building a new state and a modern society similar to others in Europe. Antonio Hernández Gil took Ortega y Gasset's words to affirm that the revolutionary process that brought about the Constitution of 1931 began with peaceful endeavours: the political life of the country was fortunately 'subordinated' to modern political ideas (1983: 13).

The republican and national ideas of Ortega y Gasset were patent in his essay *La redención de las provincias* (1927–1930), indispensable to understand his view on how to rebuild Spain as a nation without raising regional rivalries that could undermine the national unity of the country (de Blas 1991: 125–126). During the debate about the constitutional draft, a fellow MP of Ortega, Felipe Sánchez Román, upheld that to equate autonomous regions to the state was undesirable from a practical point of view and untenable from the perspective of legal technique (de Blas 1991: 134). His advice was to keep a clear distinction between state and regional institutions.

When constituent MPs passionately discussed whether to adopt or to reject a bicameral Parliament, the terms revolution and reform arose as synonyms for political tendencies towards change in Parliament. Thus, the Senate was presented by some moderate right-wing representatives as a counterweight to the revolutionary momentum. Melquíades Álvarez, of the Liberal Democratic Republican Party, argued in favour of this difference between the lower and higher chambers in democratic regimes:

> A higher chamber [is needed] that moderates the reformist impetus, extraordinarily reformist, of the popular chamber; that establishes a balance between these revolutionary energies and what we could name as the impulse towards preservation.[16]

Among the trends of republican reformism, newspapers such as *El Imparcial* criticized Araquistáin's motion to recognize Spain as a republic of workers, as was argued by some MPs who wanted to identify the new regime as such in article one of the Constitutional Draft: "All revolutions commit childish sins, and our revolution is not an exception" (*El Imparcial*, 18 September 1931: 1). One month later, *El Imparcial* resumed its criticism of the activity in the Spanish *Cortes* to distinguish Parliament's laws from revolutionary logic: laws had to be

the consequence of parliamentary deliberations, and revolution was a counterattack to undo legality (*El Imparcial*, 29 October 1931: 1). By rejecting revolution, this newspaper stood for an institutional defence of parliament and the state against any revolutionary threat.

Among the monarchic press, newspapers such as *ABC* described the course of the revolutionary process differently, as in the article 'The Project of Constitution': "Until that moment in which the powers of government were ratified, the pace of revolution was slow, on purpose aiming not to unbind the national economy" (*ABC*, 8 September 1931: 22). Here, the idea of revolution, in a similar sense to that used by the Popular Agrarian Minority, amounted to significant changes in the country's everyday life that could damage the national economy.

The liberal newspaper *El Sol* conspicuously distinguished a revolutionary assembly, identified with the Constituent Assembly of 1931, from an ordinary legislative one. This was also an attempt to diminish the authority of the independent monarchic MP Santiago Alba: "The debate in which yesterday Gentleman Alba was seen will have provided him with a new kind of experience: the parliamentary technique of a revolutionary Constituent Assembly cannot be the same as that of an ordinary legislative Cortes [Parliament]".[17]

In the article 'The nation as political society' ('*La nación como sociedad política*'), the socialist MP and intellectual Luis Araquistáin summarized his engagement with democracy as follows:

> In a perfect democratic society, and that should be a state, no majorities try to brutally prevail over minorities [...] nor do minorities demand the assent of majorities by threatening them with violence or with the rupture of the association.[18]

The also pro-republican newspaper *El Heraldo de Madrid* was even clearer in depicting the left-wing ideology connected to revolution that was shared by both the coalition government and the editorial policy of this newspaper: "The fact that revolution began without bloody features does not mean either that revolution has not happened at all, or that we are not in the middle of a revolution right now" (*El Heraldo de Madrid*, 30 September 1931: 1).

That same day, *La Época*, a conservative and monarchic newspaper published in Madrid, explicitly refuted any role for revolution in society by condemning its effects on the daily life of citizens, in the article 'Peaceful and Citizens' Revolutions' ('*Las revoluciones pacíficas y ciudadanas*'). Their position was that so-called peaceful revolutions, both in rural areas and cities, could in fact be bloody and could alter the basic rules of suffrage (*La Época*, 30 September 1931: 1).

This plurality of views on the meanings of revolution both in Parliament and the press illustrates the essentially contested nature of that concept as well as its polysemy. Compared to revolution, reform was a much less commonly used term in the republican language. Some MPs translated the classical meaning of reform so that it was understood as a fruitful and unfinished revolutionary

task that could transform Spain by replacing all the ancient institutions that, they believed, hindered social and political progress. The syntagm 'Spanish nation' almost disappeared from political language, to be replaced by expressions such as 'the system of government', or 'the democratic republic'. In other cases, especially federalists and peripheral nationalist MPs, mentioned the nation euphemistically with the purpose of avoiding the negative connotations of Spain as a national idea.

In a similar vein, reform was used to refer to minor or gradual changes in society, thus losing the appealing character, similar to revolutionary change, that the term had towards the end of the nineteenth century and the beginning of the twentieth century in Spain. Left-wing and centrist MPs equated it with the insufficiently progressive policies of the Bourbon Restoration (1874–1931) and viewed it as contrary to republican values. Instead, revolution acquired a positive meaning, as it was widely considered a necessary strategy in the process leading to a republican democracy.

Since the rebirth of the republican movement in the 1920s, the idea of revolution could not be dissociated from republican democracy. Revolution, meaning democratic revolution, could be gradual or sudden, peaceful, or violent. It was ideologically contested by MPs without republican affinities. They ascribed to the term a negative meaning, as it had during the nineteenth century and the first decades of the twentieth century. For republican groups, instead, the term revolution was positive, related to the building of a new state and identified with either fast-paced or gradual change.

1.8 Two Concepts of State

The main ideas about the state that competed for acceptance in the constitutional debate of 1931 roughly corresponded to two alternative views about how to distribute the competences of the state that, on the one hand, parties in the republican coalition government embodied, and on the other hand, political parties and MPs in the opposition refuted.[19]

The first of these views, upheld with some differences by the Spanish Socialist Workers' Party, the Radical Republican Party, the Radical Socialist Republican Party, the Progressive Republican Party, the Republican Action Party, and the Autonomous Galician Republican Organization, represented a view in favour of institutional guarantees for the rights constitutionally established. In contrast, the second view, championed by the Popular Agrarian Minority and supported by independent and semi-independent MPs, sought to subordinate the reach of state institutions to the protection of individual rights. They were especially concerned about religious freedom, property rights, and economic liberties, and thought these should prevail over social rights.

In order to understand the political language of the MPs, the semantic relationships between classical political terms can allow us to classify their arguments. Among the most plausible reasons to explain the variety of meanings ascribed to the term state, that highlighted by Adolfo Hernández Lafuente

stands out: some MPs judged the concept of state as evolving, not precisely defined, and barely rooted in the scientific field (Hernández Lafuente 1978: 14).

As the conceptual historian Reinhart Koselleck notes, the concept of state includes a set of meanings related to keywords such as territory, borders, citizenship, justice, army, taxes, and laws, among others. But, in addition, it is connected to philosophical systems, political groups, economic theories, and historical situations. When the idea of the state shifts its position to become a core and irreplaceable concept, political actors compete to monopolize its semantic core. As a consequence, the semantic controversies around its meanings never cease growing (Koselleck [2006] 2012: 45). This was precisely the case with the concept of state during the constitutional debate of 1931.

In other words, the concept of state was contested by the political agents involved in the constitutional debate, displaying semantic affinities. The use of common political and social terms depended on the political leanings of the MPs. For example, the tendency of right-wing and moderate left-wing political parties to use the language of individual rights is clear, as the Spanish Socialist Workers' Party and the Republican Action Party often did. However, it was very rarely used by the Radical Socialist Republican Party and even less by the autonomist parties from Catalonia, the Basque Country, and Galicia.

Most representatives felt a responsibility to build a new state in response to the expectations raised by the republican press and broader social groups. With just a few exceptions, left-wing parties and the centrist Radical Republican Party received the proposal of the integral state with enthusiasm. Rafael Salazar Alonso, of the Radical Republican Party, assumed that the task of MPs was to become architects of the new state (*Crisol*, 27 August 1931: 8).

According to Salazar Alonso, the concept of the state had to be projected towards the future. The positive view of centre radicalism represented by the Radical Republican Party was shared by left-wing parties in two respects: the necessity of modernizing the administration and of conceiving the state as an economic actor. The idea of building the national and legal 'conscience' of Spain was unclear, an imprecise metaphor that entailed to transform the country's economy and society in a very short time-span. A majority of MPs thought that such change could only arrive through expanding the competences of the state. The constituent moment was not limited to designing a new state, but should also root it in society. In his speech, Salazar Alonso did not talk about a new legal conscience, but about a new national and legal conscience to be developed over the next years. He believed in a proper, superior kind of national and legal idea over other alternatives. The concept of state was thus linked to radical changes of social conscience in line with both a republican form of government and a new ideological framework favourable to state intervention in the economy.

After the socialist Luis Jiménez de Asúa made his inaugural speech of the constitutional debate, Claudio Sánchez-Albornoz, of the Republican Action Party, asked for the agreement of the political parties and groups represented in Parliament to design a democratic constitutional state. To him, that new state

should address the autonomist aspirations of some regions, particularly Catalonia, the Basque Country, and Galicia. At the same time, it should preserve the institutional strength of the state. In any case, distrust over the actual likelihood of providing stability for the republican regime remained: "It has been very easy or relatively easy to conquer liberty, but it is difficult to keep it".[20]

On the one hand, the words by Sánchez-Albornoz were an argument to strengthen the state by means of the regional autonomy already acknowledged in the Constitutional Draft. On the other hand, it emphasized the weaknesses of the republican state relative to the threats – or at least the opinions perceived as such – of some social and political groups close to the interests of the Church and wealthy owners. His speech brought forward what was both a basic belief and goal of the coalition government, something which was repeated during the constitutional debate: only by consolidating the state would social rights be expanded.

In the lead article titled 'The Political Moment. The Constitutional Debate Starts', the conservative newspaper *La Época* manifested the rift between its editorial policy and what we could call today a pluralist view of parliamentary politics. The belief that the republican democracy could be consolidated only by carrying out a coherent and unwavering political plan was shared by some opinion groups. This newspaper article made that anti-parliamentary bias clear: the idea of good government is identified with an interpretation contrary to the plurality of political views about the state (*La Época*, 27 August 1931: 1).

MP Eugenio Arauz Pallardó, of the Federal Republican Party, argued in a more positive manner in favour of gradually improving the republican regime. He added to his speech federalist overtones omitted in other speeches: "The federation of the Spanish Republic will assure domestic peace, which is very much needed for guaranteeing and consolidating the Republic that we have brought".[21]

1.9 State and Republican Democracy

The political ideal that equated the state with a republican regime made explicit a very particular opinion about the state of the opposition. The newspaper *Ahora* paraphrased the statement of the radical-socialist leader Marcelino Domingo, who warned against the danger of undermining the authority of the republican government: differences in the coalition government could provoke unexpected problems to maintaining a stable regime (*Ahora*, 27 August 1931: 4). Domingo thought that, after passing the Constitution, the same risks that affected the democratic republic would threaten the state. The fact that the leader of radical socialism referred to the fundamental law of the state as a metonymy of the Constitution indicates the correspondence of republic and state in the minds of left-wing MPs. In his view, the republican political authority and the authority of the state were the same. A democratic Constitution was the only guarantee of success in building a new state.

These divergences within political parties and among newspapers arose from the polysemy around the idea of state, reduced to ideological descriptions by each one of the political groups. Nonetheless, political stability remained a shared ideal among all parties. The solution of a number of MPs to this conflict was to suggest that the security of constitutional rights and the functioning of its institutions depended on the Law for the Defence of the Republic, passed on 21 October 1931. In other words, the Constitution was set aside to take a secondary role in the legal order: its sovereignty was subordinated to the application of an emergency law.

Conservative newspapers reacted negatively to the passing of the Law for the Defence of the Republic, especially since they believed that a few parties had imposed their will on the general interest through blackmail. The result of that process, according to *ABC*, was the triumph of partisanship over the principle of national representation (*ABC*, 8 December 1931: 20).

The insecurity over the likelihood of establishing and strengthening a republican regime steadily grew, resulting in clear partisan leanings. The use of arguments about the legitimacy of diluting the competences of the state was unequally contested by opposition parties. Some groups, especially the Popular Agrarian Minority and the Basque-Navarre Minority, often appealed to a fight against excesses committed by the republican state in the areas of property, religious freedom, and tax policies.

Through the language of individual liberties, the conservative leader José María Gil Robles contextualized his own account of the role of the public powers of the state:

> If the Constitution is the fundamental law of the nation, where the play of all state powers is regulated and the rights of individuals in the face of the public power are defined, [then the Constitution] has to respond to its essence, has to achieve freedom, has to safeguard justice and has to harmonize all the demands of human progress with individual freedom.[22]

Three factors that help to clarify these two rival ideas in the political debates about the state also explain Gil Robles' speech. The first of them, abovementioned, is related to Parliament being divided into many parties as the result of the general election held on 28 June 1931. The second of them, to some extent a consequence of the first one, arises from the fashioning of interim alliances and from the constant search for support on the part of the coalition government. The third factor has to do with ideological differences. The two latter factors provoked a clear division between those political parties that sought to expand the competences of the state and their critics (Oñate Rubalcaba 2006: 403).

The decisions made by Alcalá-Zamora, of the Progressive Republican Party, until he resigned in October 1931,[23] and then by Manuel Azaña, of the Republican Action Party, proved that the most controversial articles in the Constitutional Draft were passed with the support of the Radical Republican Party and

the Radical Socialist Republican Party. That was the case when MPs of both political parties voted in favour of article 24 (article 26 of the Constitution) (DSCCRE, 13 October 1931: 1719–1720).

Both parties strongly defended article 24 (article 26 of the Constitution), together with article 25 (article 27 of the Constitution), about the so-called religious issue.[24] That circumstance favoured minority groups. The Popular Agrarian Minority, the Basque-Navarre Minority, and independent representatives acted as the opposition to the republican government. It can be corroborated after analysing the frequency of the speeches made by these parties during October 1931, since 33 speeches of these groups were delivered in that period of the constitutional debate. The parliamentary work of political groups with few representatives is crucial to the course of deliberations. As a token of this tendency, the agrarian Antonio Royo Villanova was one the most active MPs in the parliamentary deliberations over how to organize the state. His minority group and other related representatives took part in the constitutional debate on a regular basis.[25]

In fact, the idea of the state as outlined by Royo Villanova put institutions and individual safeguards before republican affinities. As a specialist in administrative law, the administration of the state was to him an initial act by the state itself, through representatives, taking place when its institutions were founded. That process is not necessarily dependent on the hypothetical internal structure of administrations in the long run (Royo Villanova 1923: 45). The influence of Léon Duguit on Royo Villanova's idea of public service is clear.[26] His concept of state, unlike that of the centrist Radical Republican Party and left-wing radicals and socialists, was a purely legal concept almost opaque to republican connotations: "Today the state is not a man who rules, it is an entity, it is a supplier of services".[27]

Looking into the explicit mentions of the state during the constitutional debate, it is possible to assert that there were five moments in the debate in which the term state was used as a distinctive political concept. These deliberations were focused on: the distribution of competences between the state and the regions (22–25 September); the role of the state in the economy and property rights (6–7 October); the relationship between the state and the Catholic Church (8–13 October); the state's role in educational issues (21 October); and the link between Parliament, the Constitution, and the state (roughly from 29 October to 4 November) (Juliá 2009: 54–68).

These issues are dispersed amongst the constitutional debate, but they are also connected with the discussion of the constitutional project, article by article. For that reason, it is difficult to establish an unambiguous correspondence between the political discussions about the state and deliberations on specific articles of the Constitutional Draft. The phases of the debate in Parliament in which the state is explicitly mentioned can be distinguished. Those phases delimited the specific meanings that the term state took on in each of the political debates selected.

1.10 State, Constitution, and Parliament (*Cortes*)

Both moderate left-wing and right-wing Spanish MPs explicitly agreed that their interrelation of state, Constitution, and parliament was the key to building an enduring democratic regime. Even if they gave divergent meanings to this bond, they opposed the anti-parliamentary claims raised by some radical socialists, the most conservative branch of agrarian traditionalism, and the nationalist parties in Catalonia, the Basque Country, and Galicia. The MPs gave rise to *sui generis* understandings of how to build a democratic state. A large majority of them considered the Constitution and Parliament to be the essential elements of success of a republican democracy, even above specific policies. In general terms, beyond ideological differences, the speeches revealed two pragmatic views about both institutions.

On the one hand, Fernando de los Ríos, Luis Jiménez de Asúa (both of the Spanish Socialist Workers' Party), the radical socialist Félix Gordón Ordás, and Mariano Ruiz-Funes, of the Republican Action Party, thought of the relationship between parliament and the Constitution in reformist terms (even when they did not use that term). They prioritized the chances of economic and social reform over including legislative measures to diminish parliamentary division. On the other hand, José Ortega y Gasset, of the Group at the Service of the Republic, Niceto Alcalá-Zamora, of the Progressive Republican Party, the liberal agrarian Antonio Royo Villanova, and Melquíades Álvarez, of the Liberal Democratic Republican Party, regarded mutual concessions between government and opposition as necessary steps to reach agreements, even if that would mean slowing down the reformist agenda of left-wing parties. A sensible attitude towards the weak institutional circumstances of Spain was indispensable to creating an enduring Constitution.

During the constituent period, the state, Constitution, and Parliament were judged to be indivisible institutions. In that sense, MPs envisaged the permanence of democracy by equating the passing of a democratic constitution with the answer to popular demands. Parliament was often interpreted as the result of the popular longing for social transformation. The state, instead, had to be the result of a constitutional agreement, but not to a lesser extent the direct consequence of parliamentary sovereignty derived from popular sovereignty. MPs understood that Constitution and parliament could contradict each other. For instance, disagreements about the functions ascribed to courts of justice at the expense of Parliament could arise. The Spanish Socialist Workers' Party sometimes seemed to suggest that to avoid a probable overlapping of functions between the courts of justice and Parliament, their relationship should be regulated through ordinary laws. Nevertheless, the majority of republican MPs agreed on delimiting the competences of Parliament to allow for a feasible semi-presidential regime and an efficient system of justice.

Some of the questions that Spanish MPs aspired to answer were the following: Can Parliament counterbalance the executive, and by the same token challenge or erode any constitutional rules? What are the reasons to justify

exceptional parliamentary decisions? How can the competences of the Constitution and Parliament be reconciled with each other? Is there an unwritten Constitution of the country based on customary rules that parliamentary sovereignty should respect as a historical fact? If not, what are the guidelines that MPs should consider when creating the Constitution? The MPs provided conflicting answers to these concerns.

The second section in that programme stated that individual rights should be under the protection of the courts of justice. Clear and efficient measures against the violations of constitutional rights were needed. However, Parliament could strikingly suspend rights in cases of extreme urgency (López Sevilla 1969: 20). According to some socialist MPs, Parliament was a superior institution when compared to the Constitution, as they firmly believed that threats against the republican democracy could only be addressed through parliamentary instruments. A concern over emergency cases determined the support for exceptional laws by the Spanish Socialist Workers' Party, in contrast with the opinions of centre and right-wing representatives.

In his renowned work 'The Azaña Regime in Perspective (Spain, 1931–1933)', Gabriel Jackson argues that both Fernando de los Ríos and Luis Jiménez de Asúa were akin to minority republican parties and democratic socialism, not to state socialism as presented by their fellow member Francisco Largo Caballero (Jackson 1959: 286). In a nutshell, socialism was a complex ideology that received incompatible meanings from members of the Spanish Socialist Workers' Party.

Socialist MPs conceived of the Constitution as the text with which to begin the building of the democratic republic. The socialist Fernando de los Ríos sketched out constitutionalism as a historical process where three phases could be distinguished: first, an individualistic vindication of civil liberties; second, the achievement of political freedoms and democratic participation; and third, addressing the concerns of interwar Europe, a final phase where social groups enlarged the meaning of freedom to transform what he considered to be capitalist societies (Díaz 1977: 96).

In that sense, the Constitution should address a newly defined but fundamental task, the struggle against what socialist MPs regarded as the unequal and unfair dynamics of capitalism. Fernando de los Ríos believed that such a tendency would be soon replaced by a legally organized economy. His view about the constitutional state did not just entail overcoming the capitalist model of society but also overcoming the economic and social backwardness of Spain. According to Fernando de los Ríos, the goals of the state and the Constitution had to be ambitious in this sense. His words in the newspaper *Ahora* summarized this idea of replacing the economic and administrative methods of the nineteenth century to erect a new constitutional state that would progress beyond the classical meanings of power and liberty (*Ahora*, 4 September 1931: 6).

Among the various reasons explaining the emergence of this new concept of state among the Spanish MPs, it is essential to mention the broad influence of

Krausism. That doctrine linked the ideas of the legal basis and political vitality of the state. According to Krausists, the state cannot be accomplished unless the constitutional order responds to the daily and organic life of the people (Demarchi 2012: 637). Neokantianism, positivism, and Krausism were the main philosophical sources in the first third of the twentieth century in Spain (García Delgado 1993: 42). Not surprisingly, the reformist programme of Krausism and some vitalistic trends in philosophy and the natural sciences were often translated into the parliamentary language through biological metaphors: referencing society as an organism, the passing of parliamentary motions as healthy steps to rebuild the state, and the illness of past institutions were commonplace.

In particular, Fernando de los Ríos vindicated the Constitution as the result of democratic endeavours: "This power that is born in this Constitution is a desired power, the wished-for, legitimate son of the will of the Spanish community. It is a creation of the legal will of the Spanish democratic community".[28] Popular will and the Constitution cannot be disassociated in this equivalence. According to Fernando de los Ríos, the republican moment represented a new opportunity to revamp Spain through legal means. The new Constitution entailed that the powers of the state should avoid the institutional misuses of the past.

Legal safeguards were not just the necessary conditions for the success of the republican state but also the instrument to curb social violence. Opposition to the existing legal framework could be debated in Parliament, but it should be avoided in extra-parliamentary contexts, even in the press, when justifying violence. Fernando de los Ríos believed that constitutional legality, and not ordinary laws, was the key to rebuilding the state. Legislative measures could be complementary to constitutional rules. Correspondingly, avoiding contradictions in the Constitution and mistakes in Parliament was seen as even more important than defining the scope of laws. Gaining the support of manual workers, agricultural workers, and the middle classes was essential to this strategy.

In that regard, Fernando de los Ríos shared a similar opinion as other intellectuals and politicians such as José Ortega y Gasset of the Group at the Service of the Republic, the socialist MP Luis Jiménez de Asúa, and Mariano Ruiz-Funes of the Republican Action Party. They identified the democratic republic with a modern and complex state. Nonetheless, the meaning given to the new regime by Fernando de los Ríos differs from the ideas of those representatives. He argued that all nations face a clash between, on the one hand, the organization of powers, the authority to rule in any political regime irrespective of the system it adopts, and on the other hand, the freedoms of the citizens in the state, as subordinated to legitimate powers: "But we do not need merely a Constitution of a liberal kind, but a Constitution to go beyond the great antithesis of power and liberty".[29]

Fernando de los Ríos believed that any political power in the past had to significantly reduce individual liberties within the state, and at the same time had to provide the basic conditions for enjoying some freedoms. In that sense,

he endorsed a more realistic perspective on how democratic regimes should exercise power and retain their authority in the context of the constitutional states of the twentieth century. As a consequence, to make freedoms effective required a Constitution, the supreme law of the state. The new framework provided by democratic constitutionalism could build on the classic liberal rule of law of the nineteenth century. The constitutional theory of James Bryce entailed an understanding of the supremacy of constitutions over ordinary legislation. Constitutions were considered rigid laws (Bryce [1921] 2011: 12–13). The Spanish MPs assumed that this feature was the first condition for the foundation of the state and its administrative structure.

Another socialist MP, Luis Jiménez de Asúa, highlighted the weaknesses of the duties and rights of citizens in the state. Parliament could not ensure liberties. To acknowledge them in the dogmatic part of the Constitution was not enough. Fernando de los Ríos and Luis Jiménez de Asúa agreed that the Constitution was the central pillar of the rest of the democratic institutions of the state. Luis Jiménez de Asúa distrusted the tendency of some parliamentary regimes towards instability, whereas Fernando de los Ríos did not regard parliamentary instruments as an obstacle either to governing or to achieving a free society. The passage below reflects Luis Jiménez de Asúa's concern:

> Today, more than a dogmatic part,[30] it can be affirmed that it is a substantive part, because all those rights, aspirations, and projects that the people long for should be brought there, arranging them in the constitutional charter to, in that way, give to it [to the Constitution] not just regular legality, which is at the mercy of the flightiness of a Parliament, but the superlegality of a Constitution.[31]

Jiménez de Asúa accepted the pragmatic attitude of socialism during the 1920s and the 1930s. Parliamentary procedures could reduce the pace of reforming the state if rival parties joined to build alternative majorities. By the same token, he assumed that rebuilding the state was a popular imperative. To fail would erode government's legitimacy in the eyes of the Spanish people. His instrumental idea of Parliament contrasts with his confidence in constitutional laws as superior and specially protected elements of the legal order, even above Parliament.

Niceto Alcalá-Zamora, of the Progressive Republican Party, went further in one of his articles for the French journal *L'Ère nouvelle*, with the title 'Explanation of a fact'. He was favourable to an internal or historical Constitution of Spain that the Constitution of 1931 had obviated (Alcalá-Zamora 2000: 89). The moderate leader appealed to this unwritten constitution, in fact non-existent, to portray some of the supposed particularities of Spain, such as Catholicism, the growing antagonism of social groups, and the tendency to hurried decision-making. The very idea of a historical Constitution had become outdated in Spain after the end of the parliamentary system of the Bourbon Restoration (Varela Suanzes-Carpegna 2010: 357). Regardless of that fact, in

Alcalá-Zamora's view, the so-called internal Constitution should be combined with the written one to leave space for those particularities. This very idea led Alcalá-Zamora to consider the preliminary title of the Constitutional Draft unhelpful and difficult to reform (Alcalá-Zamora 1981: 81).

1.11 Constitution and Sovereignty

The tension between the sovereignty of Parliament and the judicial control of the law was a permanent issue in Spanish history which, according to the constitutional scholar Ángel Garrorena Morales, made it difficult to consider an effective control of the law by the courts of justice during the republican period (Garrorena Morales 2011: 37). The Spanish Second Republic ended the general belief, common during the nineteenth century, that considered the judicial control of the law and the sovereignty of Parliament to be incompatible concepts (Garrorena Morales 2015: 45). That fact accounts for the special attention that the MPs placed on regulating Parliament as an additional power in the legal system.

In another vein, Carlos Blanco Pérez, of the Progressive Republican Party, argued in favour of a Constitution in which the regional and provincial administrations would be compatible with each other, in order to maintain the unity of the country. His speech resembles Alcalá-Zamora's call for respecting the historical or internal Constitution of Spain. As Alcalá-Zamora did, Blanco Pérez regarded Spain's traditional administration of the municipalities and provinces as a valuable system that should be promoted in the new Constitution, although it was in conflict with the desired higher degree of autonomy for the regions (DSCCRE, 2 September 1931: 730).

In partial agreement with the moderate right-wing Progressive Republican Party in that regard, the Radical Socialist Republican Party described the Constitution as the instrument within which all the revolutionary wishes of the Spanish people should be included. In opinion of the radical socialist MP José Álvarez Buylla, his party had to criticize the Constitutional Draft as it had been written, and also the influence of foreign parliamentary practices, which were deemed contrary to the constitutional tradition of Spain: "[…] you have brought all the advances and all the encouragements, and if you want it also all the radicalisms, of foreign constitutions, when you should have brought all the radicalisms and encouragements of the Spanish Constitution".[32]

Among moderate agrarians, Antonio Royo Villanova aimed to clarify how the Constitution should not detail anything beforehand, so that it could give a better expression to the needs of Spain. As the liberal democrat Melquíades Álvarez did, Royo Villanova resumed the traditional idea of constitutions as 'laws of liberty'. That is to say, the agrarian MP believed that national sovereignty belonged to the representatives of the nation. The Constitution was itself the expression of their will, a supreme law to ensure freedoms for all citizens. That concept of representation allowed MPs to make decisions contrary to the wishes

of voters (DSCCRE, 24 September 1931: 1133). If sovereignty belongs to MPs, then representatives have both the capacity and the duty to build the state as they think would better satisfy the needs of the country. Royo Villanova presented the issue as a matter of practical intelligence, in line with the modern idea of political representation. To him, to constrain the freedom of MPs when acting as representatives of the people, or to jeopardize the national unity of the country, was senseless in a democratic state.

In a similar vein, Antonio Royo Villanova argued that Parliament was the only legislative institution to preserve freedoms, not national sovereignty. Even though he said that "Parliament is the most appropriate instrument to legislate" that did not mean that Parliament itself should be considered a sort of stakeholder of national sovereignty; only individual representatives were. Following Léon Duguit's thoughts, Royo Villanova described national sovereignty in terms of administrative law. To him "there are two elements in Parliament to guarantee freedom and efficiency: publicity and contradiction. Neither publicity nor contradiction existed in the dictatorship".[33]

In that regard, the Basque-Navarre leader Jesús María Leizaola accurately distinguished the modern functions of constitutions, despite his antiparliamentary bias: "The content of the Constitutions [...] is firstly related to the rights acknowledged for individual and social persons against the state; and secondly, to the regulation, form, and functions of the organs of the legislative power".[34] Although this was a clear insight into the role of modern constitutions, Leizaola radically disagreed with it. He rather believed in a confessional Constitution to satisfy the more radical demands of some Catholic groups.

According to Leizaola, citizens wanted a Constitution, but they did not ask for a definition of sovereignty. Defining sovereignty meant, in his view, diminishing the chances of success for the Constitution. More precisely, "to define sovereignty in the Constitution adds nothing to satisfy the will of the citizens".[35] Prudence makes it advisable to include pre-established procedures before passing a Constitution, through broad agreement among representatives. Failing to do so, Leizaola argued, could discredit constituent assemblies as the ideal places to deliberate on the contents of constitutions (DSCCRE, 22 September 1931: 1052).

Since the 1920s, Parliament and Constitution were considered two complementary instruments of democratic regimes in America and Europe. Disagreements about how a fragmented and fairly new system of parties should work in Parliament were expressed by means of both ideological and technical arguments, very often mixed and hard to dissociate. In other cases, individual affinities with some theories of law played a role beyond partisanship. Generally, MPs worried about how the Constitution should be linked to both the legislative power of Parliament and the executive power of government. That was the case when left-wing MPs of the Spanish Socialist Workers' Party and the Republican Action Party equated reformist policies with revolutionary policies to describe the legislative function of Parliament as subordinated to the Constitution.

1.12 A Choice in Favour of Rationalized Parliamentarism

In the model of attenuated or rationalized parliamentarism put into practice during the Spanish Second Republic, parliamentary vote was a method of decision-making sometimes aiming to replace the role of governmental authorities in preventing abuses of executive power (Oliver Araujo 1991: 60). However, in the Constitution of 1931, the representative principle was reduced as a consequence of the popular legislative initiative, the proposal of laws by the electorate, popular referendum, and plebiscite. Only the constitutional, the statuary, and the international orders, together with tax laws, were left aside from the mechanisms of direct democracy (Clavero 1985: 133–134).

To rationalize this parliamentarism, the Constitution established the functions of ministers and MPs (art. 63 of the Constitution) regarding the regulation of both the penal (art. 92) and political responsibilities (art. 84 and art. 91) of all members of the government. These two types of responsibilities were distinguished in the Constitution for the first time in the parliamentary history of Spain (Varela Suanzes-Carpegna [2007] 2014: 40). The so-called advantages derived from this were, first, a parliamentary procedure to control government, and second, a weakened executive power in a semi-presidential regime.

This rationalized Parliament, i.e. an institution with working check and balances, was not just the result of the influence of European constitutions. It expressed a common belief of legally trained MPs since the 1910s. The creation of representative institutions was the task of the Spanish *Cortes* during the year prior to Miguel Primo de Rivera's dictatorship (December 1922 to September 1923). Both European constitutionalism and the late efforts of the parliamentary regime of the Bourbon Restoration pointed to the strength of establishing the competences of Parliament as the highest representative institution in a democratic regime (Marcuello and Ledesma 1996: 34).

According to Adolfo Posada,[36] leading member of the Legal Advisory Commission that wrote the Preliminary Constitutional Draft, the constitutional regime aimed to establish in the state's system of institutions a balance in favour of liberty. It gave the state all the means to be an autonomous organism that regulated the civil life of individuals. Moral, political, and social ideas were included in the structure of the constitutional order. Giving rise to a constitutional regime had to be the result of a positive link between political power and the freedoms of citizens. To Posada, the Constitution was the instrument through which power and freedom were fitted together (Posada 1930: 124–125).

MPs from the left and right disagreed about the future roles of the Constitution and parliament. For left-wing MPs such as Fernando de los Ríos, Luis Jiménez de Asúa, and José Álvarez Buylla, the Constitution should renew from its foundations the administrative and economic structures of the country, in order to allow disadvantaged social groups to enjoy democratic freedoms. As a result of this view, the value of individual rights was measured according to their relation to material equality. State intervention through coordinated budgetary plans and ordinary laws was thought to be indispensable. For conservative and

centre-right representatives such as Niceto Alcalá-Zamora, Carlos Blanco Pérez, Antonio Royo Villanova, and Jesús María Leizaola, both institutions should respond to the traditional administrative structure of the state, being respectful of the existing social groups and individual freedoms. Consequently, individual rights could not be lessened in order to secure social rights. On this view, popular calls for economic equality should be gradually satisfied through an efficient administration and moderate budgetary plans.

The ideological clash of democratic socialism and classical liberalism was visibly represented for the first time in the political history of Spain. Socialists, together with radical socialists, adopted a democratic language wherein the Constitution, Parliament, and state were not bourgeois institutions, but instruments of popular sovereignty used to build an egalitarian society in economic terms. In the case of the classical liberal parties, the political language of individual liberties was open to social concerns. The promotion of administrative changes and pragmatic reformism in economic and social issues were assumed to be two necessary channels to promoting justice and safeguarding freedoms.

1.13 Concluding Remarks

The first three sections of this chapter have highlighted respectively the ideological framework of the Constituent Assembly, the territorial organization of the state envisaged by MPs, and their scholarly influences. Sections 4 and 5 have examined the interplay of the ideas of parliament, constitution, state, reform, and revolution. They shed light on the complex relationship between the concepts of reform, revolution, state, and democracy, the understanding of which is indispensable to distinguishing the meanings that each party attributed to them. The loss of prestige for the reformist language of the first two decades of the twentieth century provided a positive connotation to the idea of revolution. It is difficult to distinguish when the idea of revolution was assumed to simply express the will to implement reforms, or when it was properly meant to be the will to legitimize them.

From Section 6 to Section 9 the connections between the reformist language of republican MPs with the constitutional design of state institutions make plain their practical equivalence. Left-wing reformism was equated with the revolutionary strength represented by the nascent republican regime. Reforming state institutions and providing a revolutionary boost to the state meant different things to each of the ideological groups. The 'integral state' conceived of by the Constitutional Commission led by the socialist MP Luis Jiménez de Asúa was thought to be the best answer to the territorial tensions of Spain. There was also the goal of making territorial unity compatible with regional decentralization for those regions that would demand it. That decentralization of competences transferred to the regions would be possible only if state sovereignty and territorial unity were respected by the regional powers. In that

vein, the Constitutional Court (*Tribunal de Garantías Constitucionales*) was the institution that decided on the legality of laws.

Sections 10, 11, and 12 explain why the articulation of the ideas of state, Constitution, and Parliament was crucial to forming a new political regime. MPs aimed to get rid of what they considered to be the flaws of the authoritarian regimes of the past. A large majority of MPs regarded the establishment of a Constitution and Parliament as the preconditions for a successful democratic state, inspired largely by the Weimar Republic but also by other contemporary democratic regimes. The defining of specific social and economic policies was thought to come after the loyalty of all political parties towards the Constitution and Parliament was secured. In this sense, the acceptance of the Weimar Constitution as a model to be imitated by Spanish MPs entailed a revolutionary idea of constitutional design, parliamentary sovereignty, and rationalized parliamentarism, from both a legal and a conceptual point of view.

Notes

1 The contents of the Constitution of 1931 are close to the Central European constitutional texts of Germany, Austria, and Czechoslovakia, and to a lesser extent to the Spanish Constitutions of 1812, 1837, and 1869 (Juliá 2009: 75).
2 Clara Álvarez Alonso has distinguished between a conservative tradition, a sort of bourgeois progressivism identified either with social liberalism or with reformist republicanism, democratic socialism, and radical socialism as the main political groupings in Parliament (Álvarez Alonso 2017: 317).
3 Spanish radicalism mirrored the principles of the French radicalism that arose in the second half of the nineteenth century. It was based on secularist policies, a sense of universal humanism, and a miscellaneous programme of social and economic reforms.
4 The Federal Republican Party is perhaps the most difficult group to classify, due to its focus on classical federalism with roots in the Spanish nineteenth century and its lack of definition on other issues.
5 From an ideological point of view, the Centre Republican Party fits into the liberal-conservative scheme.
6 "[…] establecer un gran Estado integral en el que son compatibles, junto a la gran España, las regiones" (DSCCRE, 27 August 1931: 645).
7 "[…] porque si ésta es la expresión del derecho por el cual se rige un pueblo, ¿cómo antes no se entendía así?" (DSCCRE, 27 August 1931: 650).
8 This party was initially named the Liberal Republican Right from its foundation in 1930 until the constitutional debate of August 1931. The reason that the official name changed can be found in the association of liberal and right-wing labels with monarchic ideas, and the larger audiences that had a better opinion of the language of progressivism.
9 Alcalá-Zamora's political ideas are closer to classical liberalism and moderate reformism. The label of conservatism seems inaccurate or simply wrong.
10 Manuel Azaña would be appointed prime minister on 14 October 1931.
11 Carlism was a reactionary political movement that arose in Spain after King Fernando VII's death in 1833. Fernando VII named a woman as heir to the crown,

his daughter Isabel II. Her adversaries, enemies of liberal reforms, supported instead the accession to the throne of Carlos María Isidro, Fernando's younger brother (Fusi 2012: 190). This conflict provoked three bloody civil wars during the nineteenth century and a series of failed uprisings by Carlist partisans. In the Basque Country and Navarre, Carlism remained deeply rooted in politics and society during the first half of the twentieth century.

12 "[…] la esencia de la autoridad, cuyo origen, porque es más alto, porque es divino, no puede ser destruido por ningún principio revolucionario" (DSCCRE, 27 August 1931: 652).

13 "[…] desde que se fundó, sirviendo de enlace a las fuerzas revolucionarias que quieren seguir haciendo la revolución, que apenas ha comenzado" (DSCCRE, 27 August 1931: 652).

14 "Hay, señores, una cosa terrible en la vida, que es la revolución de las conciencias, y esa es la que pretendéis desencadenar" (DSCCRE, 28 August 1931: 672).

15 "La Ley es más o menos reforma y por tanto suscitadora de nuevas realidades" (DSCCRE, 4 September 1931: 775).

16 "Una Cámara Alta que modere el impulso reformador, extraordinariamente reformador de la Cámara popular; que establezca el equilibrio entre estos ímpetus revolucionarios y lo que pudiéramos llamar el impulso de la conservación" (DSCCRE, 9 September 1931: 821).

17 El debate en que ayer se vió [sic] el Sr. Alba habrá dotado al ilustre político de un tipo nuevo de experiencia: la técnica parlamentaria de una Asamblea constituyente revolucionaria no puede ser la misma que la de unas Cortes legislativas ordinarias" (El Sol, 18 September 1931: 1).

18 "En ninguna sociedad democrática perfecta, y eso debe ser un Estado, ni las mayorías tratan de imponerse brutalmente a las minorías, […] ni las minorías exigen el asentimiento de las mayorías amenazando con la violencia o la ruptura de la asociación" (*El Sol*, 27 September 1931: 1).

19 This section is a shorter and revised version of the article Bellido 2019.

20 "[…] ha sido muy fácil, o relativamente fácil, conquistar la libertad, pero es difícil mantenerla" (DSCCRE, 27 August 1931: 656).

21 "La Federación de la República Española asegurará la paz interior, que nos es muy necesaria para garantizar y consolidar la República que hemos traído" (DSCCRE, 16 September 1931: 956).

22 "Si la Constitución es ley fundamental de la Nación, donde se regula el juego de todos los Poderes del Estado y se definen los derechos del individuo frente al Poder Público, […] ha de responder a su esencia, ha de realizar la libertad y salvaguardar la Justicia y ha de poner en armonía todas las exigencias del progreso humano con la libertad individual" (DSCCRE, 15 September 1931: 921).

23 Niceto Alcalá-Zamora was head (*presidente*) of the Provisional Government of the Republic from when it was proclaimed until he resigned on 14 October 1931 due to his strong disagreements with the religious policies of the political parties in the coalition government. On 11 December 1931, two days after the Constitution was passed, he was appointed president of the republic.

24 Clara Campoamor (DSCCRE: 1735) and Ricardo Samper (DSCCRE: 1755), of the Radical Republican Party, together with the radical socialist Eduardo Ortega y Gasset (DSCCRE: 1740) intervened on 15 October.

25 On 2 October, the agrarian MPs Antonio Royo Villanova (DSCCRE: 1397), José María Gil Robles three times (DSCCRE: 1413, 1417, and 1423), and the

Basque-Navarre Jesús María Leizaola (DSCCRE: 1418) spoke in Parliament. On 6 October, the Basque-Navarre Rafael Aizpún and Gil Robles (DSCCRE: 1440), the agrarian Pedro Martín y Martín (DSCCRE: 1464) and the independent Tomás Alonso de Armiño (DSCCRE: 1466) did the same.

26 A more detailed account of the idea of public service can be found in Duguit, Léon ([1907] 2017). *Le Régime du culte catholique antérieur à la loi de séparation*. Paris: Collection XIX.

27 "Hoy el Estado no es un hombre que manda, es una entidad, es un proveedor de servicios" (DSCCRE, 2 October 1931: 1398).

28 "Este Poder que nace en esta Constitución es un Poder querido, deseado, hijo legítimo de la voluntad de la comunidad española; es una creación de la voluntad jurídica de la comunidad democrática española" (DSCCRE, 3 September 1931: 749).

29 "Pero nosotros necesitamos, no meramente una Constitución de tipo liberal, sino una Constitución superadora de esa gran antítesis de Poder y Libertad" (DSCCRE, 3 September 1931: 750).

30 The dogmatic part of a constitution usually corresponds to the preamble and the first title, where the fundamental rights of individuals and the doctrinal principles of the state are enshrined. Both the preliminary title and the sixth title should be considered the dogmatic part of the Constitution of 1931.

31 "Hoy, más que una parte dogmática, puede afirmarse que se trata de una parte substantiva, porque han de ser llevados ahí todos aquellos derechos, aspiraciones y proyectos que los pueblos ansían, colocándolos en la Carta constitucional para darla [sic] así, no la legalidad corriente, que está a merced de las veleidades de un Parlamento, sino la superlegalidad de una Constitución" (DSCCRE, 27 August 1931: 643).

32 "[…] habéis traído todos los avances y todos los alientos, y si queréis todos los radicalismos de las Constituciones extranjeras, cuando debíais haber traído los radicalismos y alientos de la Constitución española" (DSCCRE, 1 September 1931: 694).

33 "Hay en el Parlamento dos elementos que garantizan la libertad y la eficacia, que son la publicidad y la contradicción, publicidad y contradicción que no existían en la Dictadura" (DSCCRE, 23 October 1931: 1911).

34 "El contenido de la Constitución […] se relaciona: primero, con los derechos reconocidos a las personas individuales y sociales frente al Estado; y segundo, con la disposición, forma y funciones de los órganos del Poder legislativo" (DSCCRE, 8 September 1931: 791).

35 "No añade nada a la satisfacción de esa voluntad de los ciudadanos el que en esta Constitución se defina la soberanía" (DSCCRE, 22 September 1931: 1052).

36 Adolfo Posada was the most prominent legal scholar in Spain during the 1890s and the 1930s; trained at the University of Oviedo (Spain), he was a full professor of political and administrative law since 1883.