

First unedited draft,
Comments very welcome

Italy and Spain

by

Rafael López-Pintor & Leonardo Morlino
University of Madrid and University of Florence

To be presented at the Conference on “The Quality of Democracy: Improvement or Subversion?”, Center on Democracy, Development, and the Rule of Law & European Forum, Stanford Institute for International Studies, Stanford, October 10-11, 2003.

Why Italy and Spain?

The democratic quality of every European polity is worthwhile to be analyzed. The fact that most of European democracies are well established is not related, if not indirectly, to the 'quality' they are able to achieve. Thus, during last years meaningful assessments of some European democracy have been carried out. For example, one of the most relevant democratic assessment is that of United Kingdom recently carried out by Beetham and Weir (1999). In this perspective the decision of analyzing Italy and Spain has no strong theoretical or empirical reasons except the willingness of choosing not the old, stable democracies, but more recently established, large democratic polity in countries with previous authoritarian experiences in their more or less recent past. That is, our interest was rather directed toward European democracies that may be more problematic with regard to quality because of their political traditions. At the same time, Italy and Spain can be usefully contrasted as the Italian democratic installation and consolidation go back to the 1940's and 1950's whereas the Spanish ones are more recent and take place during the second part of 1970's and early 1980's.

Such a comparison allow us to consider within the 'ceteris paribus' clause the size of the country with all related aspects. And this is the reason why Spain and Italy can be better candidates for this comparative exercise rather than Portugal and Greece: both ones are smaller countries with a relatively more recent authoritarian past. Clearly, a key hypothesis, which leads the choice of our cases, but still to be entirely controlled, is that the past traditions are relevant to account for the democratic quality. This implies that Italy and Spain with different authoritarian traditions are again good candidates for a comparison, whereas Germany, the other large democracy, that could have been a good candidate for a comparison, had a totalitarian experience, that is widely different from that of the other two countries.

In an empirical perspective, the research on Italy (Della Porta and Morlino, 2001)¹ and Spain² mainly emphasizes flaws and problems in the following directions: territorial limits to the rule of law, an ongoing corruption, party decline and transformation; and more specifically for Italy, large control of media by the leader of *Forza Italia* (Go Italy) and

¹ The empirical analysis on Italy largely draws on the report prepared by Donatella Della Porta and the Italian author of this paper and sponsored by IDEA within a larger international research project directed by D. Beetham and R. Lopez Pintor.

² For Spain, two main sets of sources of information have been used: social reports, official statistics, survey data and some monographic studies, on the one hand, and on the other hand, democracy assessment exercises conducted by students of economics and business administration at the Universidad Autónoma of Madrid – classes of 2002 and 2003- by following the methodology of IDEA in its simple version (International IDEA 2002). For the purpose of this paper, this latter information should be taken as a public opinion input.

incumbent prime minister during the period 2001-2006³ (mr. Berlusconi), slowness in the conclusions of trials in front of the courts, attempt of influencing the magistracy, gaps in the actual guarantee of social rights for sectors of the population; with specific regard to Spain, the attention should be devoted to the still persisting challenge to the integrity of the Spanish state because of the Basque conflict. Such a situation aggravated rather than subsided during the past 25 years by continuing violence and mounting threats to the exercise of civil and political rights among significant sectors of the citizenry in that region.

The rule of law

Territorial constraints and limits to the rule of law

Italy

The main territorial limitation to the rule of law is represented by the presence of various mafias. The influence and nature of mafias have undergone many changes, and new types of mafia have emerged as a consequence of immigration and the end of the cold war. Unclear links between political parties and mafia have been repeatedly affirmed, even by parliamentary committees set up to investigate the phenomenon. The main charge was that mafia clans supported party leaders by mobilizing votes in the territory under their control in exchange for 'assistance' in getting public works contracts and manipulating criminal records where mafia members were on trial. The new business for mafia is money laundering which has been further developed thanks to the introduction of new technologies. The struggle against the various Italian mafias received growing attention since the 1980's, thanks to some reform in the organization of the investigative actors and increasing power given to them. Antimafia legislation has brought about stiffening of some preventive measures. However, a side effect of globalization has been the development of new forms of organized crime. If the state re-gained some control on its territory, the mafias use now different modus operandi where the control of the territory is less central.

Italy has also experienced the interference of paramilitary forces which operated behind the scenes, in alliance with segments of the secret services or, at least with their connivance. The most structured attempt to create an occult form of government was the so-called "Loggia P2", operating during the 1970's.

³ And during the 1994.

Although the judiciary has high level of institutional autonomy, the increasing number of investigation on political corruption resulted in increasing criticism and attempt to limit such autonomy. The principle of a just trial, already inferable from Article 111 of the Constitution has been implemented by constitutional law 2/99. However, several shortcomings of the judiciary system are to be mentioned. A most disturbing issue is the length of the trial, which cost the Italian system several condemnations by the European Court of Human Rights. The UN Human Rights Committee has also expressed concern regarding preventive detention. In addition, the situation of the Italian prisons is very alarming and violations of human rights have been frequently recorded by the UN Human Rights Committee (1998).

Spain

Two main challenges to fully effective rule of law are the persisting conflict on territorial integrity of the Spanish state, and the shortcomings at security and justice administration by failure in bringing under control the numerous mafia groups operating throughout the country.

A fully legitimate integration of the Basque Country within the Spanish State was never formally proposed by Basque nationalists from either right or left after the restoration of democracy; this remaining an open question since the very inception of the new regime. In fact, Basque conservative nationalists of PNV called for abstention at the constitutional referendum in December 1978, although this would not stop them from negotiating a self-government statute later in 1979. The expectation existed –and still exists among a majority of the population both within and outside the Basque country- that self-government demands could be accommodated within the current constitutional framework. A drafting constitutional committee where Basque nationalist refused to participate purposefully left open-ended the provisions on the possibilities for self-government. Such an expectation has become more problematic since the mid 1990's after the pro-democracy Ajuria Enea pact and coalition governments of nationalists PNV and the Socialist Party came to an end. The PNV has led the government of Basque country ever since the first elections in 1980, but has only recently openly rejected the validity of the Estatuto de Autonomía, and announced its pursuit of a different status suggesting independence by using successively concepts such as self-determination, “soberanismo” and “free associate state”. This latter formula recalls of the legal status of Puerto Rico, and has more recently been proposed with the promise by Basque primer minister of a referendum to be called in the near future, although this would be against current constitutional provisions.

Violent action, including terror, has accompanied the political process in the Basque country with a death toll of over 800 lives by radical armed ETA since 1969. After September 11, ETA was included in the list of terrorist organizations by both the US government and the EU Council. Later on in 2003, after indictment by prosecutor Baltasar Garzón (former prosecutor of Pinochet), a sentence was issued by the Spanish Supreme Court setting a ban on the political organization Batasuna (an electoral coalition of extreme nationalist groups) after considering that it was tied to ETA as a criminal organization. The sentence was appealed by Batasuna for review and then confirmed by the Constitutional Court. For the first time since the outbreak of democracy, Basque radicals were not allowed to run for the municipal elections of May 2003. Right before the elections and at a request by the Spanish Government, Batasuna was also included in the list of terrorist organizations by both the US government and the EU Council.

Regarding courts of justice and the judiciary, these are generally considered independent from the executive or other actors' interference, although some outstanding cases of corruption have come to light in the last decade. These were most notably the case of a high magistrate in Catalonia and former member of the judiciary governing body -Consejo General del Poder Judicial. Judge Estivill is currently in prison under a six year sentence for bribery and repeated obstruction to justice. A similar case of prevarication was that of the judge Gómez de Liaño in Madrid, who like Estivill was penalized by loosing his career prerogatives.

A more serious threat to the rule of law is the existence of numerous mafia groups operating in the country. Colombian, Balkan and Easter European connections have been more frequently found. Over two hundred of these groups have been identified by the police and been considered on the increase as it has been publicly recognized by a Supreme Court prosecutor (Vercher Noguera, 2003). Mafia groups basically deal with money laundering originated from drug traffic and other criminal activities, then being funneled towards real estate operations, which frequently involve corruption practices with local authorities and political parties. A most recent case was uncovered after the May 2003 regional and municipal elections at the Madrid regional government with two MP from the Socialist party being co-opted for floor crossing by some real estate agents who were members of the Popular Party in order to prevent a leftist government to be installed. An international research group under the aegis of the Instituto Andaluz de Criminología has referred to this as a "corruption circuit" connecting massive flows of laundered money with a dramatic increase

in the real estate business and with an interest by criminals to control municipal governments all along the Mediterranean Costa del Sol (El País, June 21, 2002, p.21).

Regarding equal and secure access to justice by citizens, frequent criticism can be heard among the legal professions, including the ombudsman, as well as the common citizens. Claims mostly refer to the length of trials and duration of preventive detention. Both shortcomings at justice delivery would more often and seriously hurt the economically deprived. Although justice is free of charge in Spain, good lawyers are expensive. Defendants being indicted by minor crimes would also be in a weaker position because bureaucratic red tape and deadlines would not until recently make distinction between types of crimes. Furthermore, women are more often than men victimized on this respect (Almeda, 2002).

Successive legal reform has come to face some of these flaws. A self-governing body for the judiciary -Consejo General del Poder Judicial- was established in 1980, and further regulated in 1985, as a decisive step in enhancing the independent of the judiciary. In 1995 the jury was established for a number of criminal trials as a sign for making justice more open to society. A reformed penal code was enacted in the same year by fine tuning penal legislation to democratic standards –the so called “penal code of democracy” among the legal profession. The speeding up of criminal trials was approached in 1988 and 1992 by legislation on shortening procedures. On the same ground, a most recent reform of May 2003 aimed at speeding up judicial procedures for minor crimes and faults, a trial being ensured within 72 hours after the indictment. A new procedural law for civil suits was enacted in 2001 -Ley de Enjuiciamiento Civil. Regarding conditions of the Spanish prisons, criticism has been raised by the ombudsman, especially on prison overcrowding and inadequate arrangement of the cells by the setting of bunk beds, all of this contravening prison legislation of the highest rank, Ley Orgánica General Penitenciaria (Ombudsman report 2003).

Spaniards hold an ambivalent image on justice. On the one hand, most people are aware that in spite of all its shortcomings justice administration constitutes a guarantee of freedoms and democracy. In a national sample in 2000, 65 % of people held this opinion. On the other hand, courts of justice do not look very popular in what regards their own functioning, largely due to their proverbial slowness, but also to airing corruption cases of the last decade. In fact, public confidence in the delivery capacity of the judicial system ranks lower than in most EU member states: the opinion that the functioning of justice in Spain is good was expressed in 1997 by only 16 % of a national sample of adult population. A positive opinion was still less frequent in Italy (8 %), Portugal (12 %) and France (14 %), but it was more widespread in the other EU countries, Finland and Denmark showing the highest with

60 % and 55 %, and other countries showing somewhat in between like the UK and Ireland with 32 % in each case (Eurobarometer in Toharia, 2001, 87). Moreover, public trust in the courts of justice consistently showed below that in other branches of government since 1984 when the judiciary governing body started collecting opinion data on a regular basis. By 2000, on a 1-5 numerical scale the courts rated 2.7 vis-à-vis 3.0 of the national government, 3.5 of parliament, 3.1 of municipal governments, and 3.9 of the ombudsman and the king (Toharia, 2001, 91). Finally it is worth noticing that a critical opinion about the conduct of justice administration –independence, impartiality, competence, accessibility and efficiency- is much more widespread among the general public than among the legal profession working closer to the judiciary (Toharia 2001, 142).

Civilian control of the military and police

Italy

In Italy there is a traditional civilian (political) control of the armed forces. The problem with police and security forces has been they are always seen as a “police of the government”, which defends the political order also against the opposition. Only gradually, in the most recent decades have some elements of a “citizens’ police”, that is, which protects citizens’ rights, been introduced and the public’s perception of the police been modified. After the fight against terrorism, the struggle against the Mafia further legitimized the police, thereby contributing to a more positive rapport with the population at large. The violence characterizing the 1970’s led both protesters and the police forces to greater self-examination, and efforts to defuse violence on both sides considerably reduced the radicalism of protest. The image of the policemen as a “citizen in uniform” emerged, as did a growing sensitivity towards “legitimization from below”. This democratization of the police forces has not yet been completed, however. While the state police is demilitarized and more open to society, the *Carabinieri* and *Guardia di Finanza* remain military, and secretive, bodies. Moreover, police reform was a reform promoted from within, which focused more on the living conditions of officers than on police accountability towards society. The police force has also remained extremely centralized, under the control of the Ministry of Home Affairs, and with no deployment of powers to the Region and/or to the city councils.

Spain

In the overall, civilian control of the military and police was made increasingly effective as the democratic regime consolidated after the coup attempt of 23 February 1981, and the first socialist government in 1982. The military have ranked rather high in public confidence ever since. In a 0-5 numerical scale the military ranked 2,9 in 1984 and 3,1 in 2000 vis-à-vis 2,5 for political parties, 2,7 the judiciary or 3,0 for the government (Toharia, 2001, 91). Police also ranked high in public esteem after getting progressively demilitarized. There is two national police corps: the National Police and the National Guard, the latter in charge of rural areas, road traffic, border security and customs. Moreover, the regional governments of the Basque country and Catalonia have their police: Ertxaintxa and Mocos de Escuadra respectively.

Minimizing the effects of corruption

Italy

Among modern Western democracies, the case of Italy is singular owing to the intensity of corruption and the seriousness of its political repercussions. Since 1992, judicial investigations disclosed a complex and widespread system of political corruption, with bribes going in part to enrich individual politicians and in part to finance the political parties. Public bureaucrats often colluded with politicians. Although the investigations had in the beginning a disruptive effects on the political institutions, bringing about deep changes in the party structures and the political class, there are indications that corruption is still widespread, especially in public tenders.

The Italian experience confirms that the repression of political corruption presents specific problems in comparison to the repression of other crimes. To a large extent such specificity is linked to the potential limits that the executive power imposes on the judicial power as well as to the potential collusion between controllers and controlled. To this we must add the specificity of corruption as a crime, for it does not entail a victim: neither the bribers nor the bribed have an interest in prosecuting their case since they can share the benefits of the corrupt exchange.

The repression of corruption requires guarantees of independence from the political power not only for the judges, but also for the prosecutors. It is necessary, however, to balance these needs with those of democratic control on the discretionary decisions referring

to the politics of justice. On these themes in Italy, the debate has been distorted by a polarization between a party for the judges and an anti-judicial one. On the one hand, part of public opinion took sides in defense of the *status quo*, fearing that the political class might tame judges. On the other hand, the center-right parties, and particularly *Forza Italia*, launched a campaign against the magistracy, accused of “polluting” the democratic process by supporting one political wing over the other. This situation has jeopardized the reforms that are essential to restrict the traditional lengthiness and inefficacy of the Italian judicial system. At the same time, it has reduced the legitimization of the magistracy, over-exposed as an organ aiming to "control the righteousness" of the political class.

The cross vetoes intrinsic to the reform of the judicial system have not resolved a series of problems related to the chronic insufficiency of the judicial system. The problems of chronic ineffectiveness that torment such organisms have been increased by the probative difficulties that the new code of penal procedure has introduced. It is no coincidence that the European Court of justice has reproached Italy for the length of its judicial procedures. Obviously, the ineffectiveness of the judicial system reduces the function of punishment as a deterrent, as does the expected lightness of the sentence.

During the 1990's the disclosure of a system of capillary corruption clearly illustrated that public funding (introduced in the 1970's) had not discouraged illegitimate financing of elections, candidates and elected representatives. These political scandals paved the way for a series of reforms aimed, above all, at ensuring transparency in finances and incentives and in the reduction of electoral costs. After the Clean Hands investigation, the 1974 Law was in part abrogated and public funding of party expenses was repealed by the electorate by means of a referendum which took place on April 18th 1993, and obtained a majority of 90.3% of all valid votes.

To date, the legislation has not succeeded in making the regulation of party activities more transparent, nor in making as candidate politicians who carry out public duties and are given money by the state, have greater respect for obligations and accountability. Other measures that can help the fight against corruption are still to be implemented. Nonetheless, the fight against fiscal evasion has given some positive feedback.

A particularly delicate question for any democracy is the potential “conflict of interests” within the administration. The overlapping roles between individuals operating in the political arena and on the market makes it difficult to define any clear boundaries, and consequently produces a dangerous “concentration” of political and economic power. In Italy, the lack of a general set of norms which discipline such conflicts have been stigmatized, in

particular, after the media tycoon Silvio Berlusconi entered the political arena as the leader of the party *Forza Italia*, becoming Prime Minister from May 1994 to December 1994 and more recently from May 2001. Two bills on the issue, voted respectively by the Chamber of Deputies and the Senate are currently at a standstill.

On the whole, in Italy the political response to corruption has to date appeared extremely weak. Specific measures taken to prevent the action of bribers have been few and not very incisive. In addition, the problem of corruption has not been resolved – indeed, it is, according to statistics, on the rise again. From 1992 to 2000, after discovering the extent of capillary corruption, the Italian political class came up with a number of very limited and unclear legislative or administrative measures, aimed at preventing corruption. However, since then, the interest of the public has declined, and the theme of anti-corruption policies has gradually disappeared from the political agenda. The commitment made by the Italian Parliament (and government) to solve the phenomenon of terrorism in the 1970's or the Mafia in the 1980's is in stark contrast to what has happened in areas concerning corruption: no bill on this issue has, as yet, been approved.

Spain

Spain was rated by Transparency International among the less corrupt countries in 2002. Spain faring number 20 out of 102 countries with a score of 7.1 in a 0-10 scale from bad to good practice, similar to Belgium and Japan. Italy was ranking 31 with a score of 5.2. The position of Spain had improved in the last few years moving from rank 23 in 1999 with a score of 6.1 towards position 22 in 2000 with a score of 6.6, and later to position 21 in 2001 with score of 7.0. On a specific economic survey of business firms in 22 countries, (assessing the occurrence of bribery by business), Spain ranked 11 with a score of 5.8 while Italy was ranking 17 with a score of 4.1 (Transparency International).

Some corruption cases among the judiciary have already been mentioned. Some noticeable cases of corruption of high ranking public officials were also disclosed in the last decades, normally relating to political party financing. In the late 1980's and early 1990's, with the Socialist party in government, there was the Filesa case in 1989, a consulting firm charging fees to governmental agencies for services which were never undergone. Another case involved a brother of the then deputy prime minister. Other cases, which may have had a decisive impact on the Socialist electoral defeat in 1996, involved top officers of the Ministry of Interior, some of whom are currently in jail. There were different charges. One was the diversion of public moneys to the Socialist party and to the personal use of incumbents. This

included the charging of commissions to private contractors (the case of the Director General of the Guardia Civil), and the misuse of funds of the Ministry which were allocated to covered activities, and therefore could be kept unreported. Other charges had to do with criminal action, including murder and kidnapping engineered by public authorities in the fight to Basque ETA.

On the side of the conservative Popular Party, some corruption cases were also disclosed in the 1990's. One was involving the chairman of the autonomous government of the Balearic Islands, and it had to do with public works contractors. The chairman was compelled to resign. Another case is still pending in court and has to do with misuse of EU subsidies to agricultural production of linen in the regions of Castilla-Leon, Castilla La Mancha and Extremadura. Investigation by instructor judge Baltasar Garzón has pointed out to two high ranking officials at the Ministry of Agriculture operating through a network of business firms. Two director generals of the Spanish managing body for EU subsidies FEGA (Fondo Español de Garantía Agraria) and of publicly owned MERCASA are the main indicted among other 32 in an affair which unfolded between 1997 and 1999.

A main problem area for democratic concern has to do with deficient guaranteeing of the rights to a decent home, the use of land and the manipulation of the environment as enshrined in Articles 45 and 47 of the Constitution and current legislation on housing, the use of land and the exploitation of waters. It can be safely hypothesized that this is a sphere of life where irregular governing practices at the regional and municipal levels occur with very high if not massive frequency. On the one hand, there is the scandal scenario of big housing and real estate operations, where corruption practices are only occasionally reported. This would imply much money laundering, corrupt connections with regional and municipal authorities, and the financing of political parties. A most recent case was that already referred of real estate operators who would have made two MP from the Socialist Party refraining from voting in support of their party candidates for chairing the regional legislature and executive government of Madrid after the May 25 elections. While the political effect of this operation was immediately apparent, the criminal case may not be resolved in years. By withdrawing their vote, the two MP prevented a government by a leftist coalition in the Madrid region. This issue may prompt the calling for a new election, where the Popular Party might have a better change to get a clear majority. The real estate business in which the builders were involved has been estimated at around 6,000 million euro in just a couple of municipalities at the outskirts of Madrid. Gigantic profits are generated by the purchase of cheap arable land

and latter selling it expensive for urban dwellings after obtaining from regional and municipal authorities a new legal qualification of the land.

On the other hand, irregularities on house building and maintenance at a more grassroots level are to be mentioned: i.e. official oversight of blueprints, height of building, quality of structures, water and swage, maintenance of historically protected housing. As in Italy, non compliance to the law tends to be the rule rather than the exception in many municipalities, without action being taken by public authorities. An illustrative example was the crushing of a couple of old buildings in downtown Madrid by 2000 with the city mayor coming publicly to recognize that only ten percent of the old buildings complied by the regulations on periodic maintenance and repair. As recently as June 2003, repair works without official permit at a 19th century house downtown Madrid produced a crushing of the building with a guest worker dead.

On environmental protection, some deficit of the rule of the law can also be recorded in spite of ever more frequent positive developments. On the positive side of the balance, a raising environmental awareness has to be mentioned as well as a number of legal measures including the establishment of national plans on biodiversity, waste care, water treatment, renewable energies, and development research. All continental waters, superficial and underground, are legally part of the protected patrimony called “dominio público” by administrative legislation. But still Spain is the country more frequently sanctioned by infringement of EU environmental directives (CECS 2003, pp. 84-154).

These and related issues would only occasionally come to the public eye while a myriad of incumbents from all political parties may be getting involved directly or indirectly. It would often have more to do with refraining from action and avoiding law enforcement rather than with direct implication at inflicting damages. Yet the final effect is one of non compliance to the law, offence of certain rights with direct damage to citizens, and a breach in the responsibility of public administrators, who may care over their own popularity and voter sympathies at the expense of the general interest. This would be a typical situation of complicity between many but isolated individual interests and neglect of responsibility by public servants, all of them working short sighted and against the common good. A special anti-corruption prosecutor was established in the mid 1990's, *Fiscalía Anticorrupción*, whose effectiveness has been controversial (Jiménez, 2003).

Accountability

Democratic role of political parties

Italy

Party socialization, recruitment and campaign for office are free and effective. There are also no obstacles to their formation. But actually the presence of parties in the society strongly declined and it has impacted on the organization. Thus different kinds of party organizations still exist, but they are very 'light' and poorly rooted on the territory.

With reference to parliamentary party, the floor crossing has been recurring in the 1992-2001 legislatures that several MPs elected within a coalition have supported the cabinet of the opposite coalitions. More precisely, since 1994 the percentage of parliamentarians involved in "floor crossing" was 24% for the Chamber and 22% in the Senate. But such behavior has been strongly criticized and virtually disappeared in Parliament elected in 2001 where a solid majority does not give room to it.

The problem of the party financing of politics is still open. Many criticisms address the scarce transparency of the system of financing and the superficiality of the controls on the balance of payments and party expenses. Further the parties are surreptitiously financed by a law that allocate public funds for their publicity, attributing significant sums to any parliamentary group (composed of even just two members) which declares a certain newspaper or magazine as its own press organ. As the sums are given on the basis of the numbers of printed copies – and not in the effective diffusion of the publication - there is the suspicion that the parties obtain much more money than they do realistically invest in their press. This is an important source of financing, which is not declared.

Due to the scarcity of controls, reliable data on the actual amount and the sources of private financing of the Italian parties are not available. According to the declarations of the parties and analysis of current values, the volume of public contribution to the parties has more than doubled during last decade. Public financing therefore is today the fundamental component of incoming payments to parties, especially after the law of 1999 which allowed sums much greater than the declared electoral expenses to enter their budgets. The balances of many parties, which for a long time were in the red, have been rendered healthy.

Spain

The party system of Spain has generally assisted the working of democracy, in spite of certain corruption practices mostly relating to party finance, declining party membership, and a rather skeptical public opinion mood. In fact, political parties have been able to maintain

their organizational strength throughout the country as well as their negotiating capacity both within the representative institutions and vis-à-vis other significant social actors such as trade unions and business associations. Moreover, parties decisively contribute to the formation of an increasingly robust public opinion. And yet public trust in political parties has fared consistently low since the 1980's with a majority of citizens suspicious of corruption practices (FOESSA, 1994 pp. 648-650; Andrés Orizo, 1996, pp. 240-273; Toharia, 2001, p. 91).

The current party system closely reflects that prevailing at Republican Spain in the mid 1930's prior to civil war. It is basically a two-layer system with the national layer accommodating the left-right cleavage with the Socialist and the Popular party as two main actors. The other layer is that of nationalities and regional identities accommodating territorial cleavages, most notably but not solely in the Basque country and Catalonia. In its broader pattern is a system of extreme pluralism (see Sartori 1976) with a dominating center and bilateral oppositions. Representation at the national Lower Chamber usually includes from 11 to 13 different parties.

Parties can be easily created and minimal requirements exist to run for elections. Nevertheless, like in Italy and other countries, party membership has been declining in recent years. The two main national parties are widely though unevenly rooted throughout the country, with a weaker presence in those territories where regional nationalist parties have been historically strong (i.e. Basque country, Catalonia, Navarre).

Floor crossing is very infrequent at the national parliament and party discipline works reasonably well in spite of the fact that the legal foundation of the representation system is not in itself a guarantee for it (elected officials do not represent their respective parties but the citizenry as a whole) An anti-floor-crossing agreement was signed by all political parties in 1998 – *Pacto Antitransfugismo*- which has only been applied until now to municipal councils. All parties agreed to impede floor crossers participation in the constitution, maintenance or change of government majorities in public institutions, not to support any of their initiatives, and to discourage floor crossing by measures of an economic, regulatory or protocol character. The recent case at the Madrid regional assembly prompted a public debate on whether the pact should also be extended to regional politics (*El País*, June 25, 2003, p. 21).

Parties are basically financed on public funds, with subsidies generously allocated by law under three different concepts: the maintenance of party parliamentary groups, the normal functioning of party organizations, and electoral campaigns. Fund allocation is basically decided according to each party electoral support and parliamentary representation. Private funding from member quotas is rather irrelevant.

The media and open government

Italy

Ownership of the press is fairly pluralistic, in spite of some groups which hold a large number of newspapers in their hands, such as the R.C.S. Group, with *Il Corriere della Sera*, and *L'Espresso* Editorial Group, with *La Repubblica*. On the contrary, ownership of television networks is based on a substantial duopoly. Silvio Berlusconi, the tycoon owner of Mediaset, challenged the RAI monopoly in the highly unclear legislative context which characterized the mid-1980's, and, in a very short space of time, managed to create a situation characterized by the dominance of RAI and Mediaset over all other networks, in terms both of advertising and audience.

Political choices still have a strong influence on the composition of the Board of Governors, and hence over editorial choice. Until the early 1990's, the main parties agreed to distribute all offices and positions among themselves, thus leading to a form of pluralism with economically inefficient patronage aspects. This process was defined as *lottizzazione*, i.e. the "parceling out" of a piece of land. This did not change when responsibility for appointing the Board of Governors passed from the hands of the Chambers of Parliament into those of the Presidents of each Chamber in 1993.

The start of Silvio Berlusconi's political career at the head of *Forza Italia* clearly posed a threat to pluralism in TV news and programmes, and led to a new set of laws regulating political communications during electoral campaigns. Mediaset newsreels (*TG4* and *Studio Aperto* in particular) strongly favored *Forza Italia* and its leader, and so did - to a lesser degree - all their other newsreels. Suffice it to say that during the 2000 electoral campaign Silvio Berlusconi effectively appeared on the screen for 367.8 minutes, while Massimo D'Alema (Prime Minister at the time, Democratic Left) only "scored" 131.5, and Walter Veltroni (leader of Democratic Left) 112.7. A similar picture is confirmed during the most recent electoral campaign for 2001 elections.

Investigative journalism is unfortunately much less common compared to the widespread use of press-releases, interviews, and editorial comments on news. Nor did journalists play a decisive role in unveiling corruption. Direct intimidation by political leaders is reported as being fairly common, albeit subtle: phone calls to the editor, reports on the behavior or "unwelcome" opinions of the journalist and so on, are frequently made by politicians. Since the beginning of Berlusconi's political career in 1994, the subject of media

has been much debated both in and out of Parliament, without, however, reaching any conclusions.

Spain

The democratic role of Spanish mass media can be considered a virtuous one. Media operate in a way that sustains democratic values, having played an often-crucial role, at the installation a democratic government after Franco as well as at the successive crises of consolidation of the new regime in the late 1970's and early 1980's. At election times, fair access to the media by different parties and candidates is guaranteed by law, and tend not to be an issue. State owned TV and Radio is governed by a commission whose members are appointed by a qualified majority in parliament, a multi-party stance being so guaranteed.

Mass media structures are highly pluralistic both in terms of ownership and of cultural ideological leaning. There are two state owned nationwide TV stations -Channel 1 and 2, and a larger number of other TV owned by regional and municipal governments. Private TV would basically include four channels, each of them from different ownership: Antena 3, Tele 5 and Canal Plus, from larger to smaller audiences. This pattern of mix TV ownership developed upon the basis of EU directives in the 1990's. Radio broadcast shows a similar structure with two main public owned Radios with a national coverage (Radio Nacional de España 1 and 2), and a larger number of other stations owned by regional and municipal governments. Private Radio includes four main broadcasts, each of them from different ownership. From larger to smaller audiences these are: Cadena SER, Onda Cero, and Cadena COPE, this later owned by the Catholic Church. All relevant newspapers are private. Besides two national sport dailies, one of them ranking first in audience among all newspapers (*Marca*), there are three main national newspapers. Ranked by audience and from a liberal to a conservative leaning these are *El País*, *El Mundo* and *Abc*; this later one being the only survivor from pre-democratic times. Among regional newspapers, those with the larger audiences and influence even outside their regions of reference are *La Vanguardia* and *El Periódico* in Catalonia, *El Correo Español* in the Basque Country, and *La Voz de Galicia* in Galicia. Unlike with TV ownership, a mix pattern with public and private Radios and newspapers has been the tradition in Spain prior to democratic recovery in the 1970's. (Estudio General de Medios).

Investigative journalism has played in increasing role as democratic strengthened in the 1980's. Cases of military threats were then revealed. Illegal covered action in the Basque country by governmental officers was brought to light (case of General Galindo). Serious

cases of corruption and of administrative negligence were unveiled at different occasions, more recently the manipulation of elected officials by real estate agents in Madrid, and the negligent contracting of international air transport by the military.

Government accountability

Italy

If there are few doubts on the government influence and control of important policy areas, accountability is more problematic. In order to address these problems, an attempt was made to build a party government with a multi-party, but two-pole system. In support of this, but especially as a direct result of the growing shift of the power to regulate and apportion to European Union authorities, there is a large and growing conferral of legislative functions to government. Thus, a new setting that has been developed over the last two decades through a series of regulatory laws for the Lower and Upper Chambers has profoundly modified the relationship between government and parliament. The main result has been the abandonment of the unanimity principle in the Party Whips' conferences programming the Chambers' agendas. Under the new rules, the agenda of both the Lower Chamber and the Senate are set on the government initiative without having to be approved beforehand by the assembly, and the timing for examination and debate is guaranteed by anti-filibustering measures that go hand-in-hand with guarantees giving the opposition a preset amount of time and number of calendar periods. Furthermore, the set of Parliament activities is organized to give the executive virtual dominance of its agenda in exchange for a strengthening in opposition controls. The discipline of the vote of confidence should also not be underestimated as a means for the cabinet to constrain its majority, when conflict arises within the coalition or majority groups. It should also be remembered that secret ballot has been abolished in the great majority of cases, and consequently the possibility of "*franchi tiratori*" (snipers), i.e. members of the majority who voted against the indications of their parties, was dramatically reduced.

It remains to be seen whether this collection of tools and the more generalized attempt to position the executive centrally in the form of government with a prime ministerial re-configuration at its head has led to a greater government efficiency in the implementation of its policy program. A first indicator in this direction is government law-making. According to the Study Service of the Lower Chamber, in 1999 "Parliament further accelerated the

previous years' trend by transferring many law-making functions to the government, making use of delegation and de-legislation. In 1999 a turning point was reached in delegation: the number of legislative decrees passed (94) was indeed higher than the numbers of laws passed by parliament (72)", decree laws excluded. This is an important milestone in the time-worn model of policy making, and despite some thorny, still-unresolved judicial problems in both procedural and constitutional areas, it seems to place the government in a new, central position from which to conduct the planning and definition of an ever-growing list of crucial questions that especially concern the future of the administrative-political system and how it should interact with the market and society. A second important indicator is the increasing government-produced legislation, in addition to that delegated. Hence a tendency emerges that realigns the relationship between government and parliament. Parliament, therefore, is no longer the source of government policies, but only the "arena", where majority and opposition clash to sway decisions that have been essentially defined elsewhere.

It is also important to take into account the creation of the *independent administrative authorities* and a plethora of regulatory *agencies* whose surrogate, crucial function in economic and social regulation is now decisive. Born under the example of similar Anglo-Saxon bodies, these independent collegial bodies receive ample powers of investigation, monitoring and control. Composed of a president and of a variable number of members, they group different bodies, some of which represent Parliament and others that revolve instead around the Government. These last bodies undertake collegiate functions and consultations with the Executive. All subjects (private individuals, companies, public administrations, consumer associations) can address themselves to these institutes of protection in order to bring to their attention irregularities in the various sectors of economics and public administration. The current number of authorities is eight.

On the scrutiny of elected leaders and ministers over the bureaucracy, we may recall how, for a long time, compared to the civil servants of other democracies, Italian bureaucrats had a legal education, a markedly low-mobility between private and public sectors and a low exposure to the outside. The preponderance of staff with legal training was due to public function hinged on the principles of legality, to the exclusion of efficiency, efficacy, and economy. This legalistic attitude of bureaucracy limited its capacity for initiative and change in a country that progressively became firstly a major industrial power and subsequently a post-industrial one. The public administration's limited capacity for initiative went hand-in-hand with a widespread use of veto power: non implementation of laws, delays in handling files, and removal of the more conflictive problems from the agendas at the top of the

bureaucratic ladder. A long, contorted series of checks of mere legitimacy often gave them a decisive excuse for blocking or setting limits on the more innovative policies. Patronage relations made public bureaucrats often subordinated to party politicians. Such a behavior pattern continued until the dawning of the 1990's when a series of reforms (difficult however to implement) addressed these issues.

Finally, with reference to the distribution of formal powers between center and periphery, Italy is a state with a growing decentralization of power and an incomplete turn towards federal assets in the 1990's. The Italian Constitution provides for more than three levels of autonomy: Regions, Provinces and Municipalities and others of lesser importance. They are run by elective organs. The regional level, set up in the constitution, was implemented only in the mid-1970's. The 1990's testify for further decentralization. Overall reform of regional competence has been set in motion by executive decrees following Law 59/97 (the *Bassanini I*). But implementation is still far from complete. From the standpoint of obtaining financial resources, a reform of taxation, the so called "fiscal federalism" (Decree Law 56/2000), has been approved. In the early 1990's, a reform of the electoral system provided for the direct election of the mayors and the president of the provinces and the regions, with a potential increase in their visibility, legitimacy and political role. On the whole, the legislative reforms of the 1990's have found difficult to impose new principles on the running of offices and proceedings.

Spain

The executive branch is generally accountable before parliament and the public. On the one hand, the legislative agenda cannot be imposed by the government, and the timetable of the legislature has to be approved by the presiding commission of where representatives of the different parties seat. On the other hand, the non-confidence vote was used several times by both left and right parties, although it worked as a resource addressed to bring the government to in-depth review more than to actually produce a shift in the cabinet.

There are other procedures of parliamentary control, more importantly a yearly debate on the state of the nation, and weekly appearances by the prime minister in the lower chamber on Wednesday. These two later mechanisms came out of parliamentary practice rather than by legal provision. Investigation commissions have sometimes been operative and sometimes obstructed by the executive (i.e. on the military air crash over Turkey).

Regarding scrutiny by elected leaders and ministers over the bureaucracy, the reform thrust since the 1980's has gone in the direction of making civil servants more easily controllable by their political bosses. One thrust of reform was simplifying the traditional corporate system of bureaucratic corps. Although most elite corps remains unchanged, the main civil service component -corps general- has been enlarged and made more open both to recruits and in training contents. The other thrust of reform has been enlarging the appointment and promotion capacity by political officials over personnel within the ranks of the civil service; a sort of neo-spoil system in search of a more politically responsive bureaucracy (Beltrán, 1994).

In general, limitations to the practice of accountable government in Spain is a subject deserving deeper study, more particularly the topics of the law-making capacity of the executive branch at the expense of parliament, and the concentration of power by independent administrative authorities and regulatory agencies, many of them created in the last couple of decades. As a whole, there are 139 comprising 72 of the traditionally called autonomous, 16 public enterprises, 46 public entities with special statute most of them related to the Ministries of Development, Economics and Finance, and 5 agencies for the managing of social security (Ministerio de las Administraciones Públicas).

Regarding the power distribution between center and periphery – the decentralization/ federalism dimension- democratic quality has to do with whether decisions are taken at the level of government which is most appropriate for the people affected. As it was already said, democracy in Spain brought with itself the transformation of state structures from centralized government to some sort of federal state comprising seventeen territories with varying degrees of self-government ranging from a quasi confederation in the Basque Country to more standard federalism in Catalonia, Galicia and Andalusia, and lesser levels of self-government in the remaining “communities” -the so called “estado de las autonomías”. Devolution statutes were negotiated with the different regions between 1979 and 1983 according to the provisions of chapter VIII of Constitution. An asset of constitutional provisions on this regard is the allowing for eventual reforms of any region's statute at the initiative of the regional government in the future. Different finance laws were subsequently approved regulating the financing of the autonomous governments, including the establishment of so called “inter-territorial compensatory funds” to correct economic inequalities among the different regions. This goal was also pursued through the use of different EU funds.

Decentralization of state structures entailed a number of other changes progressively unfolding until today and having basically to do with a drastic reallocation of public expenses between national, “autonomous” and municipal governments. From a situation where public expenses at the disposal of the central government amounted to 90 % of all public expenditures by 1980, under the current state of affairs around 50% is assigned to the central government, 30 % to the regional governments and 20 % to local governments. Besides financial resources directly originating within the different regions and municipalities, an increasing part of the national budget is allocated for transfers to regional and local governments: around 22 % of the national consolidated budget in 2003 vis-à-vis 17 % in 1998. Current public expenditure of the central government in Spain is similar to that of other federal countries in the mid 1990’s like the US, Switzerland or Australia (CECS, 2003, p. 317).

Other changes have to do with development of its own civil police by the governments of Basque Country and Catalonia, and the composition of the civil service at the different levels of government. The evolutionary pattern on this later respect shows a dramatic raise in public employment of over half a million between 1982 and the mid 1990’s while the new state structures consolidated. In the last ten years, public employment increased very little. But a spectacular change occurred in the employment share by the different levels of government. The overall number of public employees amounted to over two million people both in 1993 and 2002, which would amount to 15 % of the entire occupied population, a little below the EU average of 17 %. Today, the largest proportion of public employees belongs to the regional governments with over 50 % of all public employment vis-à-vis 26.4% in 1993. Contrarily, the national government currently employs 24.5 % of all public employees while its proportion in 1993 was 57.3 %. Finally, the remaining 23.8 % are local government’s employees vis-à-vis a percentage of 16.3 in 1993 (Beltrán 1994, p. 569; Ministerio de las Administraciones Públicas).

As an overall assessment it can be said that the territorial structuring of a new Spanish state since 1978 has generally been considered a success by common citizens, experts and political actors (Gallego y Subirats, 2002). A most relevant exception is the Basque country. But failure at accommodating the Basque conflict within the new state shows the signs of historical misfortune rather than those of democratic failure. Generally speaking, autonomous regional government and empowered municipal government together have allowed for state power coming closer to the people, and renewed community identities, which have brought much dynamism to the political, social and cultural life of Spaniards. At the specific

municipal level, the continuing flow of otherwise centralized financial resources has drastically changed the shape of the physical environment as much as the political and cultural life of cities and villages. On the other hand, as recently as June 2003 a draft law on government for large cities was sent to parliament by which, among other changes, popular participation in the city government was enhanced by creating a City Social Council and the city organized into several districts. Moreover, mayors are further empowered by having the possibility of including non-elected officers as members of the city governing executive committee (*El País*, June 7, 2003, p. 24; Gallego y Subirats, 2002).

Responsiveness

Government responsiveness

Italy

For want of good recurrent surveys, here only will the responsiveness of the government and some aspects of participation be analysed. In Italy, relationships between government representatives and representative organizations have given life to a pluralistic system of functional representation. Since industrial relations enjoyed a low institutional profile, trade unions sought an additional resource through a privileged relationship with parties, aligning on different fronts. A high level of fragmentation also affected the organizations representing entrepreneurs due to party and political alliances, resulting in a weakening in capacity for collective action and concertation. State intervention in the relationships among social actors was initially weak. If the 1950s saw state intervention especially in public-sector industry, in the following decade the center-left governments paved the way toward company contract negotiations and institutionalized confrontation with workers' representatives. It was not until the late 1970's that concertation started to emerge in industrial policy. In the 1990's, increasing institutionalization was witnessed both in collective bargaining and social concertation, indicating a move towards a corporate model, albeit decentralized. In the Italian legislation, parliamentarians, just like other elected officials, are not limited by mandate vis-à-vis their electors. Access to elected representatives is however granted in an informal, individualistic and selective way, especially along patronage lines (in particular, but not only, in the South). Only very recently, at local level, have some municipalities started to develop websites, offering citizens information and channels of interaction with local administrators.

Opinion polls indicate a long-standing dissatisfaction of Italian citizens towards their administrators. In this area, Italy has been characterized by a strong gate-keeping role of political parties that traditionally mediated citizens' demands to the public administration. Traditionally, users have no formal means of participation, and recourse to magistrates has long been the only (and expensive) means of "complaint and redress". Indeed recourse to the magistracy has been high and is rising. Awareness of the need to improve the quality of public services, or those in any way considered in the public interest, has marked recent Italian legislation. The tendency over the last few years has been to entrust matters concerning the guarantee of the quality of services provided to independent administrative authorities set up for the purpose (see above). In the late 1990's, several laws have enhanced citizen access to the administrative documentation that concerns them, increased the possible means of opposing unpopular executive decisions, simplified the relationships between private and public administration, set in motion a process that will reduce the number of laws and make them more simple, given greater room for interest group participation in public decision making and improved the visibility of public decisions.

Spain

With regard to the government responsiveness, first of all, support to democracy has consistently been in the rise since transition times: a majority of over 50 % of the public would express support in 1980 to the idea that democracy is preferable to any other form of government; the percentage had arisen to 84 % in 1998 and 86 in 2000. On the other hand, satisfaction with the specific functioning of democratic government has also been in the rise during the last years: 50 % of people very or fairly satisfied in 1996, 61 % in 1997, and 64 % in 1998 and 2000 (CIS data in CECS, 2003, xxvii).

Regarding evaluation of incumbents, the ebbs and flows of opinion mood since the 1980's have closely followed the evolution of opinion on two other issues: one is the economic situation of the nation; the other is whether a new government is in place or declining after its first or second term. Any government is more positively assessed during its first term in office, especially when the economy is on the rise (Datos de Opinión 30, 2002). On the other hand, assessment of the executive branch tends to be consistently less positive than that of parliament, the ombudsman or the king, but more positive than that of the judiciary, political parties and politicians (Toharia 2001, p. 91).

Another indicator of government responsiveness is the number and types of claims, which are brought before the ombudsman relating to the functioning of the different public

administrations. As with opinion mood, this has shifted dramatically between years: 21,000 in 2002, 12,848 in 2001, 26,625 in 2000, and 12,877 in 1995. More recently, about one third of these complaints were coming from citizens living in Madrid; this fact seemingly being related to a growing malaise in the capital concerning the mounting presence of immigrants, security deterioration, and inefficient justice administration. The larger numbers of claims are related to immigrant issues (17 %), tax administration (16 %), civil servants at national and regional or local government (13 %), justice administration (12 %), social security and labor (7 %), housing and real estate (5 %) (Defensor del Pueblo).

Political Participation

Italy

The political parties that developed relationship of “protection” with social movements and various NGOs have traditionally mediated political participation. Rates of membership in political parties were quite high, although with serious differences in the meanings of membership (Morlino 1998). If participation to various kinds of associations was low in comparison with other European countries, the number of people who took part in unconventional forms of political participation was quite high. In some periods protest radicalized, even into terrorist forms. Voluntary associations (such as charities) were traditionally associated with the Catholic Church and had only informal and sporadic relations with the public administration.

The pattern of political participation changed in the 1980’s and in the 1990’s. In the 1980’s protest became much more moderate in repertoire and pragmatic in scope. In the 1990’s, the breakdown of political parties that followed the exposure of political corruption dramatically affected political participation. The drop in political party membership has been particularly remarkable after the political scandals that started in 1992. Protest increased, although keeping mostly moderate forms. Social movement organizations multiplied, but remaining usually very small and loosely connected with each other. The voluntary associations grew too, in number but not only. New forms of “association life” developed in the so-called Third Sector with increasing, although sometimes conflictive, relations with the public administration, especially at the local level.

A persistent problem is the under-representation of women standing in national and local elections. Participation of women to public life is, in Italy, quite low by comparison to other Western democracies. According to the Inter-Parliamentary Union, on a descending rank order of 177 countries based on the percentages of women in the lower or single

chamber Italy ranks at the 56th place. The role of women in other areas too emerged late compared to Constitutional precepts. For example in the area of family rights, it was only by Law 151/75 that measures objectively restrictive to the moral and legal equality attributed women by the Constitution, including the exercise of parental authority by the father alone, and his sole right to extraordinary administration of children's and family assets and to decide on place of residence, were finally abolished. Finally, many laws have long been in conflict with the provisions of Article 37 of the Constitution that states that a woman worker has the same rights and, for doing the same job, the same pay as her male counterpart, and that her special family role must be duly considered and protected. Formal equality was established only in the late 1970's (Law 903/77). Further in this direction is legislation that not only forbids discrimination but also provides initiatives aimed at a more-than formal equality in the workplace between men and women. In order to inject vigor into the achievement of real equality between the sexes in all its various aspects, among other things a national Commission was set up and also, recently, an *ad hoc* Ministry.

Spain

Electoral participation has remained basically unchanged since the 1970's showing a dual pattern. At general elections, turnout rates show at either 80 % or 70% depending on the level of political confrontation prior and accompanying the elections. Elections at 80 % are usually those producing a shift of the majority; while elections at 70 % are usually those for keeping an incumbent. On the other hand, regional and municipal elections tend to show turnout rates between 65 and 68 %. The case of Spain is not one of declining turnout, but of shifting turnout according to the level of political interest of an election. This is congenial with comparative research by placing political interest as main trigger of participation (López Pintor and Gratschew, 2002, pp.75-91).

Like in Italy and other countries, political party and trade union membership in Spain has decreased in the late 1980's and 1990's, but unlike in other countries voter turnout has not declined. Moreover, enrollment in social movements and voluntary associations has shown a steady growth both in membership and scope of activity. The phenomenon contradicts the stereotyped view of Spanish society as unarticulated and low in solidarity. The path of change has been unequivocally recorded (Ruiz Olabuénaga, 2000; De la Torre and Lopez Pintor, 2003). In fact, by 2003 around 60 percent of the adults participated in some kind of voluntary organization with then highest rates for neighbor and sport, trade unions, and social assistance organizations; all these with over 10% of the citizenry involved. More highly principled

organizations like political parties, environment and human rights associations enjoy smaller membership. Moreover almost one out of every four adult Spaniards is member of three or more associations. Ever since the 1980's, cultural, sports and social assistance associations are among those in the rise; while parties, unions and religious organizations are in the fall. Another main finding is that a large number of organizations are financially supported by a number of contributors which is much larger than their own membership. This is basically the case with social assistance organizations like Red Cross and Caritas, those for support of the disable, migrants and ex-prisoners, human rights and international development (De la Torre and López Pintor, 2003).

Women participation in public life has been dramatically improving, and is more intensive than in Italy and in many other EU member countries. Women access to public office, both popularly elected and through competition in the professions has dramatically improved. This is not only relevant in its own terms as part of an evolutionary pattern in the Spanish society, but also in comparative international terms with Spain ranking higher than many other well established democracies in and outside Western Europe. Let it be first said that quotas of at least 30 % women candidates are regularly applied by political parties for all elective offices. Starting with the national parliament, women seating in the 350 seat Lower Chamber has evolved from 22, 0 % in 1996 to 28, 3 % in 2000, which purports to an increase rate of near 30% between the previous and current legislature. Women share in the 259 seat Senate increased even more dramatically from 14, 8 % in 1996 to 24, and 3 % in 2000, with an increase of over 60 %. The speakers of both Congress and Senate were women in the past legislature, and the current Congress is still chaired by a woman. Women representatives at the European parliament comprised 32.8 % of all Spanish representatives in 1995, and 34,4 %, at the current chamber, which is higher than the EU average of 29,7 %.

At the executive branch, four women currently hold portfolios in a national cabinet of fourteen: foreign affairs, education, environment, and health and consumers. Among undersecretaries and directors general 11 % were women in 1996, but the female share increased up to 16 % by 2000. At regional governments, women comprised 11 % of the executive branch in 1996 while the percentage had almost doubled in 2000 with 20 %. At the municipal level, around 10 % of all mayors were women in 1999, a higher percentage than in 1995 and which may have grown still further after the recent municipal elections of May 2003. In traditionally male-occupied offices like in the judiciary, women judges outnumber men. By 1995 women comprised 43 % of the entire judiciary: prosecutors, judges and court

administrators. In 2000 female share of the judiciary amounted to 53 % (Instituto de la Mujer).

Freedom and equality

Nationhood and citizenship

Italy

In general, the acquisition of citizenship, mainly regulated according to *jus sanguinis*, is quite difficult, and this is more and more problematic since Italy, once an “emigration country” became, since the 1990’s, a “country of immigration”. Equality between women and men is legally granted, but the UN Human Rights Committee (1998) mentioned persisting discrimination against women on the job market. The UN Committee on Economic, Social and Cultural Rights has emphasized that the weak legal protection for homosexuals. The Italian Constitution protects linguistic minorities “by means of special provisions”. However, only very recent legislation (Law N.482/99) has attempted to give juridical status to minority linguistic groups. Until the 1980’s, immigrants have enjoyed very little legal protection. A limited (although growing) number of human rights are granted now to non-citizen residents. With the exception of the citizens of the European Union, who obtained the right to vote in administrative, municipal and council elections of their places of residence, non-citizen residents have no right to vote.

Although in the past, Italy has experienced a relatively low number of racist incidents compared to other European countries, during recent years, owing to the growth in the number of immigrants, these incidents have been on the increase. Although Italian legislation has showed an awareness of new phenomena such as racism and intolerance by introducing ad hoc provisions, the fear of the “illegal immigrants” as potentially delinquent is widespread. The European Commission against Racism and Intolerance of the Council of Europe has identified some crucial areas—such as more awareness-raising against intolerance; more reliable and efficient implementation of the legislation against racism and intolerance; strengthening co-operation between the state, voluntary organizations and NGOs dealing with assistance to immigrants --on which Italy should focus.

By and large, Italy does not have a tradition of positive discrimination for disadvantaged groups. An heavy influence of the Catholic Church also restricted or delayed some individual liberties in particular on family issues and sexual behavior. An homophobic culture limited rights for homosexual and delayed women’s rights.

Spain

About nationhood and citizenship the Basque conflict on national identity and territorial integration remains as the main political problem of contemporary Spain. Furthermore, no improvement but subversion can be reported on this issue after the coalition governments between the Basque conservative PNV and the Socialist Party came to an end in the early 1990's. Almost simultaneously, an agreement among all nationalist forces -both conservative and radicals- in search for self-determination (so called Pacto de Lizarra) substituted for a previous pact on democratic stability among all political parties -Spanish and Basque- except radical nationalist Batasuna (so call Ajuria Enea pact).

Like in Italy, Spanish citizenship is regulated according to the *jus sanguinis* and is hard to acquire even for Latin Americans from countries where double nationality treaties exist. Voting by foreigners is restrained to administrative and municipal elections and only for those EU citizens residing in Spain and having previously notified the electoral authorities in writing of their intention to vote. Among non EU citizens, only Norwegian citizens are allowed to vote in Spanish municipal elections. As a whole, this non-Spanish electorate amounts to just over ten thousand people.

Spain becoming a country of immigration, a growing number of human rights is granted now to non-citizen residents, even those without proper legal status (i.e. the right to health assistance in public hospitals, the right not to be deported to their countries of origin unless detained at the border when entering the country). Although successive legislation since the late 1990's has tried to accommodate the growing flux of immigrants and avoid the social exclusion of non-registered residents, the association in the public mind of immigration with delinquency is feeding xenophobia and racism; with some albeit isolated serious incidents occurring with death casualties (i.e. El Ejido, Murcia, Madrid). In fact, police and security statistics unmistakably show that such an association actually exists, which is at the base of growing citizens' concern on security since the mid 1990's as one of the main problems of the country (CECS, 2003, pp. 4-7).

Like in Italy, Spain does not have a tradition at positive discrimination for the disadvantaged. A strong influence by the Catholic Church also delayed some individual liberties especially on family issues and sexual behavior (i.e. divorce, birth control, abortion, women's rights, and rights of homosexuals). It can safely be said that at least at the legal level these restrictions are all gone since the mid 1980's. As for practice, tolerance is the rule

although there are cases of extreme discrimination coming sometimes to the surface especially regarding the safety of women with their sexual or marital partners.

Free and fair elections

Italy

Free and relatively fair elections are the rule in the present Italian politics. Registration and voting procedures are accessible and inclusive for all citizens—although, as mentioned, all non-citizen residents are excluded from national elections and only EU-citizens can vote in local elections. The party system is characterized by high fragmentation, and during the last decade the decline of electoral turnout has been continuous.

The problem of the equal and fair access of parties to the media has been regulated by the law on the so-called *par condicio* (equal condition) that imposes impartiality in the practice of access of candidates and parties to the means of communication with the electors. Furthermore, an independent *Osservatorio* undertaken by the of Pavia University publishes regularly the data concerning exposure in the mass media of each political grouping represented in Parliament, distinguishing both networks and single programmes (such as news and talk shows, etc). However, there remains a great deal of debate on the effective validity of the provisions. On the one hand, the law has been largely challenged as it takes into account the television and radio exposure of party coalitions— be they large or small – that present a minimum number of candidates on an equal basis, not on the basis of their electoral force. Moreover, criticisms are directed against the networks that overexpose some party leaders during the periods in between one electoral campaign from another. This problem is all the more acute since three national television networks (Rai1, Rai2, Rai3) are public and consequently easily influenced by the government and the other three (Canale5, Rete4, Italia1) belong to Mediaset, whose main owner is Silvio Berlusconi, who has been prime minister in 1994 and then again since 2001 to the date.

Spain

Elections held at high democratic standards –free and fair by using catchwords of the times- are the rule in Spain ever since 1977, when the first post Franco general election took place under a provisional decree, which –by reflecting consensus among contenders- proved good enough as to stay embodied in electoral legislation until now. Registration and voting

procedures are all inclusive. Mail voting can be used both at home and from abroad. As in most EU countries, voting is not mandatory.

Election organization is managed by the Ministry of Interior and municipal authorities under the regulatory and oversight authority of a National Electoral Junta, appointed by Parliament by qualified majority. Equal and fair access by parties and candidates to the media is legally guaranteed, and is not usually the subject of public controversy. General elections are held in Spain every four years as a maximum deadline. According to the practice of parliamentary regimes, an early election may be called by the prime minister. In the Spanish case, this would also apply to government in the Basque country, Catalonia, Galicia and Andalusia, which are the four regional governments with highest self-governing capacity.

Civil rights

Italy

Freedom from physical and moral abuse is mainly enshrined in Article 13 of the Constitution that prohibits all forms of restriction, even temporary, on personal freedom “unless by motivated act of the legal authorities” and only where provided for by law. Only in cases “exceptional in necessity and urgency and absolutely indicated by law” may public security authorities take temporary measures that must, in all cases, be confirmed by the judicial authorities within a very short time. The Constitution guarantees a wide range of freedom of movement, expression association and assembly.

Legislation on public security, still hinged on the 1931 Unified Text of the Law on Public Security (TULPS), bears however traces of its authoritarian origins, some of which survived the impact with new constitutional principles and Constitutional Court jurisprudence. Some of these have given rise to debates that the Constitutional Court has not always contributed to solving satisfactorily. Some measures in particular within TULPS significantly restrict rights guaranteed by the Constitution, such as for example the police power of obligatory accompaniment, or the crime of refusal to give ones own identity or seditious shouting and demonstrations.

Freedom of religion is affirmed by Article 8 of the Constitution that states that “all religious faiths are equally free under law”. Article 19 confers a special characteristic to the principle of religious freedom affirming that everyone has the right to profess their religious faith in whichever way they please, proselyte or practice in public. It must however be said that the Constitution itself places the Roman Catholic religion on a plane making it

objectively different from other faiths. A wide variety of groups operate without government restriction, investigating and publishing their findings on human rights cases.

Spain

Civil and political rights are equally guaranteed for all Spaniards with a main exception in the Basque country, where enduring political conflict makes difficult or deter the exercise of certain rights for large sectors of citizens, especially the non-aligned to the nationalist political forces accounting for around half of the electorate. Street violence and intimidation within different social and institutional settings, including threats to life, are routine in many Basque towns and villages. Freedoms and rights in jeopardy are basically freedom of movement, association, expression and public demonstration.

The death toll of violent action by ETA amounts by end of June 2003 to 857 victims, most of them falling after the reestablishment of democracy, which accounts for almost 80 % of all victims of political violence since 1960; the remaining to be assigned to another armed group of controversial identity GRAPO with 81, extreme right activists with 42, and armed and security forces 114 (Asociación Víctimas del Terrorismo). ETA announced a truce in 1998, which was presented as “a definitive ceasefire”, but an end to the truce was called in December 1999. Street violence of varying damaging effects is very frequent in the Basque country, usually undertaken by militants and sympathizers of Batasuna. Frequent threats and intimidations are addressed to militants and headquarters of non-nationalist political parties especially around election times.

Cultural and linguistic rights are constitutionally enshrined with Spain holding four official languages, which are a right to be made effective in the different territories where they belong. The Castilian language is the common language, but Euskera is co-official in the Basque country. Catalan in Catalonia, and Gallego in Galicia. In those three territories, their native language is mandatory to be taught at public school, and public servants including the judiciary cannot deny the citizens to deal in their own language.

Religious freedom is recognized by the Constitution, but like in Italy a particular mention is made to the importance of the Catholic Church, giving Roman Catholicism a status of privilege.

Social rights

Italy

The welfare state has been traditionally based on a non-universalistic, occupational model, partially reformed in the 1960s and the 1970's, when the social expenditures reached 22.6% of the gross internal product (versus 10% in the 1950s). Although developing an universalistic approach to the public health system and reducing the particularism in the provision of social security, the welfare state kept its characteristics of overprotection of some groups (those occupied in the public sector and the large firms in the industrial sector) and strong under-protection of the so-called "weak quota" of the labor market: women, young people, irregular workers. Employment policies have traditionally been oriented at the passive protection of those already employed, with a lack of "active" intervention to expand occupation. A huge and increasing part of public expenditure went in the pension system, which was also characterized by an hyper-protection of those occupied in the "strong" labor market, with retirement pensions that were proportional to the wage instead than to contributions, and very young retirement age. Low invalidity pensions were distributed often in a clientelist way. Families and charities associations had to compensate for the weaknesses of this "breadwinner", or familistic, model based on the protection of the adult males with regular jobs.

Some reforms in the 1990's were oriented especially to reduce public expenditures in the welfare states and solve some of the disequilibrium of the Italian model. In many fields, there has been a move from transfers of income to services and incentives. In particular, policies on unemployment moved decisively towards an active promotion of new jobs, giving impulse to professional training, part time jobs, and in general larger flexibility in the labor market. As for the pension system, since 1992, several reforms have contrasted—although not solved—the problems created by the "breadwinner" tradition. Moreover, it is worth mentioning that, in field such as health, employment and assistance there has been a trend towards decentralization, although with the maintenance of strong control capacity to the central government.

In addition to recognize the right to work, Article 4 of the Constitution states that the Republic "promotes conditions that make this right effective". Access to work and social security is however more difficult for certain categories, in particular for immigrants from non-European countries. Total unemployment in Italy is one of the highest in Europe, but that of adult males is Europe's lowest (in the mid '90s). This means that women and young people are those most excluded from the labor market. Although the "underground" economy, traditionally widespread in Italy, is now in decline, there is an increase of so-called "atypical

occupations”, where workers have low levels of protection. Moreover, irregular jobs are frequent among immigrants.

According to World Bank statistics (1997), full access is available to health services and sanitation, even if *Caritas* points, however, to areas of health where immigrants are particularly vulnerable. Environmental protection has not been on the political agenda for long. Only in the late 1990’s a national agency was set up whose duty it is to provide means of controlling and verifying the respect of regulations regarding pollution and environmental protection in coordination with the Ministry of the Environment.

The recognition of the role of trade unions is found in basic Law 300/70 (the so-called “Worker’s Statute”) that provides for a wide range of rights to trade union associations in the workplace. On the workplace, company union representation may be organized within the framework of each trade union signatory to the collective labor contract. Article 40 of the Constitution recognizes strikes as a workers’ right, to the point of placing them among the absolute right of a person. The Constitutional Court has affirmed the legitimacy of “political” strikes i.e. those that are aimed at solving general grievances, not directly against the employer and not necessarily containing demands of a retributive or contractual nature. There are no available data on actual discrimination of trade unions, although this was an issue until the 1970’s.

Consumers’ protection has been traditionally low, although now gradually increasing, in particular in the form of the protection of the market (often resulting from Community directives).

Spain

Welfare state has progressively evolved to cover the basic needs of larger sectors of the population. In the national budget, social expenses take the largest part of the consolidated budget with 48.3 % in 2003 versus 55 % in 1998 with pensions –especially retirement- taking 32 % and 27% respectively, employment support policies around 3 % and 2%, and unemployment subsidies 5 % for both years. Social expenses as a whole have diminished, but the pensions share increased. The share of unemployment subsidies remained unchanged in spite of the drastic reduction of unemployment.

In the realm of industrial relations, the making of social pacts between government, unions and business organizations has become a tradition of Spanish democracy ever since the trade unions abode by the so called Moncloa pacts of 1977 by which the government and all political parties pledged to work closely together in the drafting of a Constitution as well to

curb prevailing two-digit inflation rates. Successive overarching socio-economic agreements were signed until the late 1980's under which more specific sector collective bargaining was undertaken (López Pintor, 1995, pp. 500-510). Moreover an agreement on retirement pensions was signed by all political forces and unions in 1995 –then becoming law in parliament, which was reviewed in 2000, and is currently under new review. The so called Toledo pact regulates the criteria and amounts of pensions, and set the issue aside the political confrontation at election campaign. Retirement pensions are decided upon contributions during the late 15 years of one's working life, and limits are set of around euro 400 minimum and around 2,000 maximum. The pension system is considered in healthy financial condition, and unlike other countries of the EU, no problems are envisaged until 2015. (Matías, 2003; CECS, 2003).

Fiscal pressure as an indicator of social equality and welfare state development has shown a positive evolution while the democratic regime consolidated. Still Spain holds a middle position among the OCDE countries in this respect. In 2001 fiscal pressure amounted to 35, 2 % of GDP, a percentage similar to Canada (35, 2), higher than USA (29, 8), but lower than Italy (41, 8) and certainly some northern European countries like Finland (46, 3) and Sweden (50, 8) (El País June 16, 2003, p. 76). It is to be noticed that in the overall evolution of tax pressure during the last few years the component of indirect taxes has grown while direct taxes have diminished.

The right to work is enshrined in constitution. Employment policies have moved in the last years towards more flexibility to hire and fire the employees while at the same time while employment opportunities kept growing. Unemployment has dramatically declined during the last years, although Spain still has one of the higher unemployment rates in the EU: 11 % in 2002 vis-à-vis 19 % in 1997. As in many other countries, unemployment rates are consistently higher among women than men: 28 % vs.16% in 1997; 17 % vs. 8 % in 2002. Unemployment rates among the youth are also consistently higher than among older age groups. Data from 1997 show 51 % among people aged 16-19, 36 % for people 20-24, and 18 % in the age group of 25-54. By 2002 the differences between several age groups remain basically the same, although unemployment has been reduced for all of them: rates of 30 %, 20% and 10% respectively (Instituto Nacional de Estadística).

The right to participate in the creation and management of working conditions both in general and the workplace through trade unions is regulated by both the Constitution and a super law Estatuto de los Trabajadores. Unions participate quite effectively in social pacts and

collective bargaining of all levels. Striking including general strikes as political events is regulated by law.

The right to a decent home is also in the Constitution. Difficulties in making this right effective have escalated in recent years as prices of housing increased 82% between 1994 and 2002 while salaries for the same period only grew 30 %. The average price increase between 1980 and 2000 was 10 % per year, this being the highest among the OCDE countries with Italy rating fourth (CECS, 2003, p. 418). This has been denounced as having much to do, among other factors, with the massive flow of money laundered towards real estate (Vercher Noguera, 2003).

Regarding the rights of immigrants, some positive developments can be reported. Legislation on their rights and freedoms has been enacted at super law level in 2000. But discrimination practices have been reported in the last few years having basically to do with access to school and housing. The 2002 ombudsman report singled out a pattern of landlord resistance before apartment rentals to foreigners. This was considered “very serious” and having an effect of “racist and xenophobic” attitudes frequently relating foreigners with crime. The ombudsman report was also critical of the poor living conditions at the centers for the internment of illegal migrants in the African Spanish cities of Ceuta and Melilla in spite of reiterated promises for improvement by the government. The ombudsman also reported a much less frequent access by the children of foreign parents to publicly subsidized private schools than to public schools. The share of migrant children in public schools doubles that in subsidized private schools, being so more frequently the case in working class neighborhoods. The growing number of this category of students (2, 2 % of all students by 2001) is deemed by the ombudsman as deserving more attention by the government (Defensor Del Pueblo).

The international dimension: Italy and Spain

No conclusion on democratic quality of a country can be proposed without pointing out that every democracy is a part of a geo-political area and of a network of international relations. Specifically, Italy and Spain are members of several international organizations, such as NATO, the Council of Europe, WEU, UN, OECD, G7, WTO and, above all, European Union. Consequently, they are conditioned by several constraints as most of the other European countries. Particularly, the membership in the EU contributes to emphasize the problems of the so-called democratic deficit within the Union. Italy is also fairly active

within the Office for Democratic Institutions and Human Rights of the OECD in charge of monitoring elections and developing national electoral and human rights institutions.

As an international dimension of government responsiveness, it is relevant to wonder whether the external relations of the two countries are conducted in accordance with democratic norms, and is it itself free from external subordination. This is of utmost importance given the increasing presence of Italy and Spain in the international sphere, both economically and politically. In Latin America, for example, Spanish investment became second after the US in the last decades. The Magreb and Middle East had always been prioritized by Spain's foreign policy, which made it a most risky affair when the country shared as a third partner in the international coalition for the occupation of Iraq in April 2003. Direct support to the US and UK undertaking took place under mounting opposition in parliament and public opinion both in Italy and Spain.

Professional Italian and Spanish military have participated in peace keeping operations starting in Nicaragua, El Salvador and Guatemala in the early 1990's. They became later on present Bosnia, Kosovo, Albania, Macedonia, the African Horn, Afghanistan and Iraq (Anuario El País 2003, p. 132).

In the dark side of Italian and Spanish international relations, weapon export as an activity which is by itself contradictory to the search for peace and human rights in any country of the world as part of democratic standards, still more so when dealing with countries without a democratic government. Thus, contradictory to Italy's commitment in the promotion of democracy abroad, there is the growth of arms export to countries that are either involved in war or have poor human rights records, like Eritrea, Ethiopia, India, Pakistan, Algeria, Turkey and Columbia.⁴ Spain is also a fast growing net exporter of weapons: from 8.7 thousand tons in 1994 to 14.9 in 2000 vis-à-vis imports of 1.7 and 9.0 thousand tones for the same years. Import and export expenses are more balanced with Spain purchasing increasingly more sophisticated weaponry. In 1994 imports amounted to 22.7 million euro versus exports for 64.8 million. In 2000, imports amounted to 88.0 million versus exports for 85.1. In 2002 imports amounted to 71.7 million versus exports for 81.1. (INE, 2003; Anuario El País 2003, p. 387).

⁴ According to the *Osservatorio italiano sul commercio di Armi* (Oscar) the Italian defense industry receives sizeable orders from countries such as United Emirates of Arabia, Cyprus, Ghana, India, Algeria none of which are paragons of democratic virtue.

Concluding remarks

Building on the previous analysis a few other remarks seem useful. First, the situation in Spain was one of democratic consolidation whereas in Italy a deep crisis of the party system and other institutions exploded after 40 years of party hegemony of DC. Like in Italy though, some of the significant institutional changes were moving in a similar direction: towards regional and local self-government, reforming the public administration and especially the judiciary, and a more profound involvement in international affairs both within the EU and in peace keeping operations.

Second, the analysis on Italy and Spain shows the persistence of territorial and other limits to the rule of law. They can be explained, and this task has been carried out by a few scholars who rightly point to the problems of cultural and institutional continuity. But such a problem is a very relevant one for the overall analysis of the Italian democratic quality as the rule of law possesses the special 'status' of being also a sort of precondition for a more effective implementation of the other aspects of quality.

After the changes of the early 1990's, characterized by the change of electoral laws at country and local levels and of parties, the Italian democracy seems a better one when the vertical accountability is considered because of the new party bipolarization and the actual possibility of government alternation. But at the same time the weakening of parties and the large influence on mass media of an entrepreneur who became the prime minister are negative aspects in terms of at least both rule of law and accountability. In addition, the changes in the decision making process with the weakening of Parliament can be seen as a decrease of horizontal accountability with regard to the concrete possibility that the Parliament performs the tasks of checking effectively the policies proposed by the cabinet rather than becoming a 'rubber stamp' Chamber.

This last empirical consideration brings to light a key aspect of last decade, partially overlooked by the same empirical research. Since early 1990's with the changes mentioned above Italy began a transition toward a more majoritarian democratic model. After more than a decade, such a transition has not been concluded yet. This means that there are some of the key elements of the majoritarian model, but other counterbalancing aspects that are recurrent in all other majoritarian democracies fall short. In addition, when institutional changes, such as decentralization, that could have such a counterbalancing effect, have been formally decided and approved even by a referendum (October 2001), then they have been only partially implemented. All this makes more difficult a better implementation of the rule of law, accountability and responsiveness as well.

Democracy in Spain has been progressing since the early 1980's when the new regime successfully overcame the test of force of a few coup attempts, and alternation in government between right and left proved possible. The exercise of the rights and freedoms and continuing decentralization of state structures have been progressing ever since. Other positive developments are: a strengthening of the welfare state, legal reform envisaging a more open and efficient justice administration (establishment of the jury, reform of the penal code, simplification of procedures for civil suits, and speeding up procedures at criminal trials), and a more professional military (changes of career structures, abolition of conscription in 2001, and an expanding presence of military personnel in international peace keeping operations).

It is worthwhile to restate that the most serious shortcoming remains the effectiveness of the rule of law in relation to the Basque conflict. Two basic and related issues of state building are involved here. One is the conflict on national identity within a community where half of the citizens are not ethnically Basque, and among the other Basque half a majority does not reject a sharing of national identities both Basque and Spanish. The persistence of a radical nationalist armed organization, with minority electoral support, further complicates a negotiated exit to the conflict. Another related issue is one of territorial integration of Basque historical territories into a national Spanish state. On the one hand, there are different views on identifying the specific boundaries of Basque territories within today's Spain (i.e. the question of the old kingdom of Navarre). On the other hand, there are the French Basque provinces, which are being claimed as part of an eventually independent Basque state.

A second main concern affecting democratic quality relates to the effectiveness of the rule of law in controlling mafia groups operating throughout the country with money laundering, which is massively funneled into real estate and housing operations, involving corrupt practices by local authorities and political parties. Problems at efficient justice administration, mainly length of trials and preventive detention, also constitute actual limitations to the equal exercise of certain rights. Finally, certain discriminatory practices against women have been identified, the most serious of them related to domestic violence by husbands or sexual partners.

Why has Italy and Spanish democracies evolved in the way which has been described? The democratic crisis and its outcome in Italy is closely related to the model of its consolidation and subsequent changes where a strong relation was struck since beginning

between the governmental parties, especially Christian democracy and later on Socialists, and interest association, especially industrial entrepreneur⁵

In Spain the main factors accounting for an overall positive picture have to do with the vitality of that society since the early 1960's. There was a young society, which was demographically young and economically prosperous, but culturally and politically repressed after so many years of reactionary dictatorship supported by the strong repressive influence of main socialization agencies, such as church, school and the family. Pragmatism and moderation governed over reform strategies by both the younger elements of the late Franco regime and the opposition democratic elites. After the death of Franco and the democratic installation a realistic political strategy was assisted and moderated by persisting memories of civil war in the collective mind while at the same time the political class of war times was practically absent or of little relevance.

The two main stains in the picture are also to be accounted for albeit on different grounds. Regarding the persisting conflict in the Basque country, it must be recognized that a definite solution including full territorial integration into the Spanish state was never envisaged by Basque nationalists from either left or right. Therefore the issue could have never been honestly discussed between the Basque and Spanish elites. Current developments are actually rooted or embedded in the transition and constitution building times 25 years ago. This conclusion can be easily reached after recalling a few past events. First, Basque conservative nationalists refused to make part of the constitution drafting committee in 1978. Furthermore, they called for abstention at the constitutional referendum in December 1978, although they were ready to negotiate in Madrid a devolution statute in 1979. Why the core issue (i.e. independence) could not be honestly brought into the public discourse –even less at a negotiation table- until the late 1990's? Among other constraining factors the following could be mentioned: a fear of the military whose actual powers were unknown until much later in the process; uncertainty and even fear to a split within the Basque conservative nationalists always ruling in Basque regional and most local governments; the expectation by conservative nationalists that armed ETA could not be defeated and the cause for independence would be steadily in the advance by means of force.

Explaining other limitations to the effectiveness of the rule of law may prove still harder: i.e. control of mafia groups, corruption practices related to party finance, impunity of individuals and local authorities not abiding by building and environmental regulations. The

⁵ For a detailed account of this see Morlino, 1998, ch. 7.

following can be mentioned. First, the relative smoothness of democratic transition at a time of economic prosperity may have encouraged a sense of impunity both among public authorities and the public at large. Second, this would be still more likely at a time when government budgets were growing faster than ever. There was so much public money to be spent in the short budget term and so hard to be brought under control by elected or administrative auditing bodies. Third, there is the insatiable thrust for financial resources by political parties.

In a closer comparative perspective, during the last quarter of the 20th century, the main problem in Spain, i.e. the challenge at the integrity of the Spanish state from the Basque conflict, is second in importance in Italy where the territorial demands of the North are supported by a declining Northern League and have been partially satisfied. The two main problems in Italy regarding the effectiveness of the rule of law, namely, the uncontrolled mafia groups, and Berlusconi's interest conflicts on the hot issue of the information are much less relevant in Spain where there isn't a leader such as Berlusconi and lower developed mafias basically deal with real estate and drug traffic basically.

At a lower degree of relevance, although of some salience, the following similarities may be singled out as well:

- Reform towards a better justice administration is taking place in both countries although the opinion mood on the functioning of justice in Spain is more positive than in Italy (in 1997 by only 16 % of a national sample of adult population had a positive opinion, but this was still lower in Italy ,8 %. Besides. a special anti corruption prosecutor exists in both countries.
- In both countries, there is discrimination of women and immigrants, but the participation of women in public life is much higher in Spain. In another perspective the situation of women in Spain seem more negative discriminatory than in Italy because of episodes of domestic violence.
- Still in both countries arm exports seem a challenge to the practice of democratic standards in international relations.
- The Catholic Church plays a central role in so many aspects of public and family life in both countries. At the same time there are areas of family morals where current practice is open contradiction to Catholic orthodoxy (i.e. birth control and abortion with Italy and Spain among the four countries with lowest birth rates in the world).

And with regard to the differences,

- Unlike in Italy, no similar concentration of media ownership exists in Spain, although the main newspaper EL PAIS and the Radio with largest audiences Cadena SER both belong to the same group. Moreover, no party press of significance exists in Spain, that is, precisely the opposite than the Italian situation with several party and even small group newspaper that are very relevant in the political elite debate and more generally in the political party dynamics.
- Political parties and the party system in Spain looks in a better shape than in Italy, precisely because these are going through opposite historical experiences of growth and decline respectively.
- Finally, the social security system, and especially the pension system, seems in better shape in Spain than Italy both organizationally and financially.

Bibliographical references:

General:

Beetham, D. et al. (2002). *International IDEA Handbook on Democracy Assessment*. The Hague: International IDEA, Kluwer Law International.

_____. (2002). *The State of Democracy: Democracy Assessments in Eight Nations Around the World*. The Hague: International IDEA, Kluwer Law International

Dahl, R.A. (1971), *Poliarchy. Participation and Opposition*, New Haven, Yale University Press.

Dalton, R.J., S.J. Pharr, e R.D. Putnam (2000), "Introduction: What's Troubling the Trilateral Democracies?" in S.J. Pharr and R.D. Putnam, eds., *Disaffected Democracies: What's Troubling the Trilateral Countries?* Princeton, N.J., Princeton University Press, pp.3-29.

Eulau, H. e P. Karps (1977), "The Puzzle of Representation: Specifying Components of Responsiveness" in *Legislative Studies Quarterly*, 3: 233-54.

----- e K. Prewitt (1973), *Labyrinths of Democracy*, New York, Bobbs-Merril.

Giddens, A. (1984), *The Constitution of Society: Outline of the Theory of Structuration*, Cambridge, Polity Press.

Internacional IDEA. (2002). *Democracy Assessment: The Basics of International IDEA Assessment Framework*. Stockholm: International IDEA. Available in English, Spanish, French, Russian and Arabic.

Kaase, M., K. Newton (1995), eds., *Beliefs in Government*, Oxford, Oxford University Press.

Katz, R. S. e P. Mair (1995), "Changing Modes of Party Organization and Party Democracy: The Emergence of the Cartel Party", in *Party Politics*, I (1): 5-28.

Maravall, J. A. (1997), "Surviving Accountability" in Jean Monnet Chair Papers, European University Institute, Florence.

Maravall, J.A. (2002), "The rule of law as a political weapon". In J.A. Maravall e A. Przeworski, eds., *Democracy and the Rule of Law*, Cambridge University Press, forthcoming.

Marshall, T.H.(1963), *Sociology at the Crossroad*, London, Heinemann, 1963.

Morlino, L. (1998), *Democracy Between Consolidation and Crisis. Parties, Groups and Citizens in Southern Europe*, Oxford, Oxford University Press.

----(2003), *Democrazie e Democratizzazioni*, Bologna, Il Mulino.

O'Donnell, G (1994), "Delegative Democracy", in *Journal of Democracy*, 5 (1): 55-69.

---- (1999), "Horizontal Accountability in New Democracies", in Schedler, Diamond and Plattner, *The Self-restraining State*, cit..

Pharr, S.J. e R.D. Putnam (2000), eds., *Disaffected Democracies: What's Troubling the Trilateral Countries?* Princeton, N.J., Princeton University Press.

Rueschemeyer, D., S.E. Huber Stephens e J.D. Stephens (1992), *Capitalist development and democracy*, Cambridge, Polity Press.

Sartori, G. (1976), *Parties and Party Systems*, Cambridge, Cambridge University Press.

Schedler, A., L.J. Diamond e M. Plattner, (1999), eds., *The Self-restraining State: Power and Accountability in New Democracies*, Boulder: Lynne Rienner.

Schmitter, P.C. (1999), "The Limits of Horizontal Accountability", in Schedler, Diamond and Plattner, *The Self-restraining State*, cit..

Weir S. and D. Beetham (1999), *Political Power and Democratic Control in Britain*, London and New York, Routledge.

Italy

Caretti, P. (2002), *I diritti fondamentali: libertà e diritti sociali*, Torino, Giappichelli.

Della Porta e L. Morlino (2001), Rights and the quality of Democracy in Italy. A Research Report, Stockholm, IDEA.

Guarnieri, C. e P. Pederzoli (1997), *La democrazia giudiziaria*, Bologna, Il Mulino.

Poli, E. (2002), *Forza Italia*, Bologna, Il Mulino.

Putnam, R.D. (1993), *Making Democracy Work: Civic Traditions in Modern Italy*, Princeton, N.J., Princeton University Press.

UN Human Rights Committee (1998), *Concluding observations: Italy*.

World Bank Statistic (1997-2000), *World Development Report 1999/2000*, Washington, USA.

Spain

Alberdi, I y Matas, N. (2002). *La Violencia Doméstica*. Barcelona: Fundación la Caixa.

Almeda, E. (2002). *Mujeres Encarceladas*. Barcelona: Ariel.

Andrés Orizo, F. (1996). *Sistemas de valores en la España de los 90*. Madrid: CIS.

ANUARIO EL PAIS 1998. Madrid: Ediciones EL PAIS.

ANUARIO EL PAIS 2003. Madrid: Ediciones EL PAIS,

Beltrán Villalba, M. (1994). "La reorganización de la estructura del estado (1982-1993)". In *V Informe Sociológico sobre la Situación Social en España*. Madrid: Fundación FOESSA, pp.557-576.

Centro de Investigaciones Sociológicas. (2002). *Datos de Opinión 30*. Madrid: CIS.

Centro de Investigaciones sobre la Realidad Social. (1995). *La realidad social en España, 1993-94*. Madrid: CIRES.

CECS, Centro de Estudios del Cambio Social. (2003). *Informe España 2003. Una interpretación de su realidad social*. Madrid: Fundación Encuentro.

Gallego R. y Subirats J. (eds.). (2002). *Veinte años de autonomías en España: Leyes, políticas públicas, instituciones y opinión pública*. Madrid: Centro de Investigaciones Sociológicas.

INE (2003). *Anuario Estadístico de España*. Madrid: Instituto Nacional de Estadística.

Jiménez, F. (2003). "La financiación de los partidos es el gran agujero de la democracia". *El País*, June 22. *El Domingo*, pp. 6-8.

_____ (1995). *Detrás del escándalo político*. Madrid: Tusquets.

López Pintor, R. and Gratschew, M. (eds.). (2002). *Voter Turnout since 1945. A Global Report*. Stockholm: International IDEA

_____ (2002). "Para que la democracia crezca. Diagnóstico y propuesta". In *La Sociedad. Teoría e Investigación Empírica. Libro Homenaje a José Jiménez Blanco*. Madrid: CIS, pp. 649-669.

_____ (1995). *Sociología Industrial*. Madrid: Alianza, 3ª edition.

_____ (1994). "Una visión de conjunto sobre la dinámica del sistema político entre 1982 y 1993: de la primera crisis del régimen democrático a la plena integración europea y a una nueva etapa parlamentaria"; "Tendencias en la evolución de la opinión pública y el desarrollo de una cultura política democrática"; "Las elecciones en un sistema multipartidista y pluriregional"; "España en la escena internacional, una visión de futuro". In *V Informe Sociológico sobre la Situación Social en España*. Madrid: Fundación FOESSA, pp. 553-556, 577-604, 605-628, and 675-692.

Matías López, L. (2003). "Peligran nuestras pensiones?". *El País, Domingo*, June 22, p. 1-3.

Meil, G. (2001). "La Violencia Doméstica en el Contexto del Cambio Familiar. Una Perspectiva Sociológica". In *La Violencia en el Ambito Familiar. Aspectos Sociológicos y Jurídicos. Cuadernos de Derecho Judicial*, 5. Madrid: Consejo General del Poder Judicial, pp. 75-100.

Rubio Llorente, F. (2003), "Vernos como somos". *El País*, June 21, p.14.

Ruiz Olabuénaga, J.I. (2000). *El sector no lucrativo en España*. Madrid: Fundación BBVA.

Toharia, J.J. (2001). *Opinión Pública y Justicia. La Imagen de la Justicia en la Sociedad Española*. Madrid: Consejo General del Poder Judicial.

Torre de la, I. y López Pintor, R. (2003). “Imagen pública del Tercer Sector en España” as part as a broader volume on the Third Sector, which has been researched and is being published by the ONCE Foundation.

Vercher Noguera, A. (2003). “Delincuencia urbanística”. *El País*, June 20, p. 21.

Websites:

Asociación de Víctimas del Terrorismo, www.avt.org

Defensor del Pueblo, www.defensordelpueblo.es

Estudio General de Medios, www.aimc.es

Instituto de la Mujer, www.mtas.es/mujer

Instituto Nacional de Estadística, www.ine.org

Ministerio de las Administraciones Públicas, www.map.es

Ministerio de Asuntos Exteriores, www.mae.es

Ministerio de Asuntos Sociales, www.mtas.es

Ministerio del Interior, Procesos Electorales, www.elecciones.mir.es

Ministerio de Hacienda, www.minhac.es

País Vasco, www.euskadi.net

Transparency International, www.transparency.org