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Consensus and Parliamentary Opposition: The Case of Spain

ALTHOUGH THE ANALYSIS OF OPPOSITION HAS A LONG TRADITION dating back to the mid twentieth century if not before, many scholars have complained that Robert Dahl's first systematic treatment of the subject¹ has not been matched by comparable subsequent studies and that, as a result, opposition remains an inadequately explored area of political science.² This is the case above all in fully democratic regimes, where very little research has been done into the opposition and where the literature has concentrated on the outcomes of the legislative process rather than on the behaviour of the opposition as a political actor. Thus, we know how often laws are approved with the agreement of the opposition, but we do not understand when and why the opposition decides to cooperate with the government.

¹ Robert Dahl (ed.), *Political Oppositions in Western Democracies*, New Haven, CT, Yale University Press, 1966.

² Klaus von Beyme, 'Parliamentary Oppositions in Europe', in Eva Kolinsky (ed.), *Opposition in Western Europe*, London, Croom Helm, 1987, pp. 31–2; Stephanie Lawson, 'Conceptual Issues in the Comparative Study of Regime Change and Democratization', *Comparative Politics*, 25: 2 (1993), p. 203; Oreste Massari, 'Natura e ruolo delle opposizioni politico-parlamentari', in Gianfranco Pasquino (ed.), *Opposizione, governo ombra, alternativa*, Rome-Bari, Gius Laterza & Figli, 1990, pp. 32–3; Courtney Jung and Ian Shapiro, 'South Africa's Negotiated Transition: Democracy, Opposition, and the New Constitutional Order', *Politics and Society*, 23: 3 (1995), pp. 271–2; James Cotton, 'Opposition in Asian Constitutional Systems: Characteristics and Potential for Democratic Consolidation', *Government and Opposition*, 31: 2 (1996), p. 177; Geraint Parry, 'Opposition Questions', *Government and Opposition*, 32: 4 (1997), pp. 457–8; Jean Blondel, 'Political Opposition in the Contemporary World', *Government and Opposition*, 32: 4 (1997), p. 462; Gianfranco Pasquino, *La oposición*, Madrid, Alianza Editorial, 1998, p. 41. Cfr. Stefano Sicardi, *Maggioranza, minoranze e opposizione nel sistema costituzionale italiano*, Milan, Giuffrè Editore, 1984, pp. 3–8.

This article tries to fill this gap by analysing the incentives faced by the main opposition party when voting on laws in the Spanish parliament. As we argue below, Spain constitutes an interesting and representative case in point for the study of the opposition in a democratic parliament, and our findings could easily be replicated in other consolidated democracies. Previous research shows that in Western democracies, and more specifically in parliamentary systems, there is a surprisingly high level of consensus and cooperation between government and opposition. For long periods of time, the dominant pattern is consensus. Generally speaking, we observe what is sometimes termed consociational behaviour.³

This pattern has been identified in countries such as Italy, Great Britain and Germany. Franco Cazzola studied the choices made by the Italian Communist Party (PCI) in the Italian parliament and found that the PCI voted in favour of 75 per cent of all laws approved in the first four post-war parliamentary terms.⁴ This might seem surprising, since the PCI has always been classified as an anti-system party.⁵ Giuseppe Di Palma continued the research into the fifth term and found that consensus voting had increased to 81.3 per cent.⁶ Richard Rose found similar results in his study of the British parliament between 1970 and 1979. First the Labour, and then the Conservative, opposition reached a consensus with the incumbent in 80 per cent and 77 per cent of bills, respectively.⁷ In order to reinforce his hypothesis about the existence of a consensual pattern in law-making, Rose also examined presidential systems. In the United States Congress, for example, he found that the opposition party in the 1970s only voted against the incumbent 37 per cent of the time.⁸ As for Germany, Rose mentions that less than 10 per cent of

³ Richard Rose, *Understanding Big Government*, London, Sage, 1984, pp. 84–5; Pasquino (ed.), *Opposizione, governo ombra, alternativa*, p. 15; Pasquino, *La oposición*, p. 63.

⁴ Franco Cazzola, 'Consenso e opposizione nel parlamento italiano. Il ruolo del PCI dalla I alla IV Legislatura', *Rivista Italiana di Scienza Politica*, 2: 1 (1972), pp. 71–96.

⁵ Silvano Tosi, 'Italy: Anti-System Opposition within the System', in Rodney Barker (ed.), *Studies in Opposition*, London, McMillan St Martin's Press, 1971, pp. 153–67.

⁶ Giuseppe Di Palma, *Surviving without Governing*, Berkeley, University of California Press, 1977, pp. 55 ff.

⁷ Richard Rose, *Do Parties Make a Difference?*, London, Macmillan, 1980, pp. 80–1.

⁸ Rose, *Understanding Big Government*, p. 85.

legislation was the object of partisan controversy.⁹ Thomas Saalfeld, in turn, has even written in terms of a 'unanimous' decision-making style in German politics. His study of the Bundestag in the period 1972–87 found unanimity (approval by all parliamentary groups) over 44 per cent of all major bills.¹⁰

In contrast, consensus between government and opposition is exceptional in regimes that cannot be classified as fully democratic. When disagreements exist over the basic rules of the political game, or when the opposition is blocked and cannot reasonably expect to win elections, it tends to adopt a more adversarial and obstructionist pattern of behaviour, trying to block or even boycott legislative activity. In these circumstances, the opposition tends to oppose all proposals coming from the government and hence dissent becomes endemic.¹¹

Yet, even in consolidated democracies, consensus is never absolute. There is variation across different legislative periods within a single country and across different issues in the same parliamentary period. Spain is an interesting and under-researched case in point. Although we do not have strictly comparable data to those mentioned above for other European countries, when it comes to bills that require a majority to be passed, the main opposition party has voted with the government in around 70 per cent of cases. This overall figure suggests a similar pattern to that found in Germany, Italy or the United Kingdom for the legislative production as a whole.¹² Nevertheless, there is some interesting variation that needs

⁹ Ibid.

¹⁰ Thomas Saalfeld, 'The West Bundestag after 40 Years: The Role of Parliament in a Party Democracy', in Philip Norton (ed.), *Parliaments in Western Europe*, London, Frank Cass, 1990, pp. 77–8.

¹¹ See, for example, the case of Bangladesh; Nizam Ahmed, 'Parliamentary Opposition in Bangladesh: A Study of its Role in the Fifth Parliament', *Party Politics*, 3: 2 (1997), pp. 147–68.

¹² We can only calculate the percentage of consensus for all laws in the V legislature (1993–96): from data provided by Guerrero, we can deduce that 63 per cent of all laws were approved with the vote of the main opposition party. See Enrique Guerrero, *Crisis y cambios en las relaciones parlamento-gobierno (1993–1996)*, Madrid, Tecnos, 2000, p. 163. On the other hand, Capó has shown that during the first four legislatures, the average number of positive votes for all laws was 214 (in a chamber of 350 members), the average number of negative votes was only 36, and the average number of abstentions was 15. We can reasonably infer from this that in order to produce these

to be explained. On the one hand, in some periods the level of consensus drops to just 44 per cent, while in others it reaches almost 100 per cent. On the other hand, on some issues consensus is close to 100 per cent, but on others government and opposition concur only half of the time.

In methodological terms, here we do not try to explain the *equilibrium level* of consensus (that is, why this level of consensus between government and opposition is found in Western democracies). In this respect we too would highlight the importance of the kind of institutional incentive suggested by Maurizio Cotta, namely that by cooperating with government the opposition has a chance to influence government policies, thereby demonstrating to its voters that, despite its electoral defeat, voting for the party is not completely useless.¹³ However, here we are more interested in *comparative statistics*: given the high degree of consensus, why does the extent of consensus vary in some cases? What factors explain deviations from the equilibrium level?

In order to account for this variation in the Spanish case, we explore three factors, following the model suggested by Franco Cazzola.¹⁴ The first two are purely institutional: the existence of a majority or minority government; and the identity of the mover of the proposal (the government, the main opposition party, smaller parliamentary groups, or regional governments). The third factor is more political: it has to do with the content or subject matter of the bill under consideration. These factors are tested through quantitative analysis of a database we have constructed of 221 laws of constitutional relevance ('organic laws') for the period 1979–2003.

The article is divided into three sections. The first section introduces and explains the significance of the Spanish case. In the second part we discuss our hypotheses and provide a brief description of the dependent and independent variables. Finally, the last section contains the statistical analysis: we have run several logit

averages, most laws had to be approved with a high degree of consensus. See Jordi Capó, 'Oposición y minorías en las legislaturas socialistas', in *Revista Española de Investigaciones Sociológicas*, 66 (1994), p. 96.

¹³ Maurizio Cotta, 'Parliamenti e rappresentanza', in Gianfranco Pasquino (ed.), *Manuale di scienza della politica*, Bologna, Il Mulino, 1986, pp. 300–1.

¹⁴ Franco Cazzola, *Governo e opposizione nel parlamento italiano*, Milan, Giuffrè Editore, 1974.

models to explain the variation we find in the levels of consensus between government and opposition.

THE SPANISH CASE

After almost four decades of authoritarian rule under General Franco, Spain has been a parliamentary democracy since 1979. The parliament is bicameral: the upper chamber is the Senate (Senado), and the lower one the Congress of Deputies (Congreso de los Diputados). The lower chamber is by far the more powerful body. So far there have been seven legislative terms: I (1979–82), II (1982–86), III (1986–89), IV (1989–93), V (1993–96), VI (1996–2000), and VII (2000–04). In four of these terms (II, III, IV and VII) the incumbent has enjoyed a majority, whereas in the other three (I, V and VI) the incumbent formed a minority government.

The institutional system in Spain is biased in favour of majoritarian outcomes. In fact, Spain constitutes a good example of adversary politics.¹⁵ There is a clear separation between government and opposition, so that the opposition does not expect to participate in government. The electoral system tends to produce four effects: (1) overrepresentation of big parties; (2) a winning party; (3) parliamentary majorities; and (4) government stability.¹⁶ Ever since the first term, government and the main opposition party have together held between 81 and 88 per cent of the seats in the lower chamber.

We use the term parliamentary consensus to refer to the concurrence between the main opposition party and the government in a parliamentary decision.¹⁷ Of all the different types of legislation and parliamentary decisions, we only consider the so-called ‘organic laws’ (*leyes orgánicas*). A majority of seats in the Congress is required in order to approve, modify or repeal an organic law.¹⁸ An organic law may

¹⁵ S. E. Finer (ed.), *Adversary Politics and Electoral Reform*, London, Anthony Wigram, 1975.

¹⁶ José Ramón Montero, ‘Sobre el sistema electoral español: rendimientos políticos y criterios de reforma’, in Juan Montabes (ed.), *El sistema electoral a debate*, Madrid, CIS & Parlamento de Andalucía, 1998, p. 40.

¹⁷ Rose uses a similar definition of consent: ‘consent is given to laws by the approval of Parliament’, see his *Understanding Big Government*, p. 90.

¹⁸ The Standing Orders of Congress, section 131.2, available at www.congreso.es.

derive either from a government bill (*proyecto de ley*), the initiative for which corresponds to the government, or from a proposal for a bill (*proposición de ley*), when the initiative corresponds to one of the parliamentary groups. In either case, once the bill has been approved in the lower chamber, it goes on to the Senate. If the upper chamber amends or rejects the bill, then it is sent back to Congress for a final vote.

Organic laws belong to what Pasquino has called the grand consociation type (*grande consociazione*), namely fundamental laws on topics of constitutional or territorial significance. These laws are intended to improve and reinforce the operation of the political system in particular and of democracy in general. Small consociation laws, in contrast, regulate the resources that are distributed by the State¹⁹ and in the Spanish system they are processed under the procedure used for ordinary laws, when a plurality of seats is sufficient to pass the law.

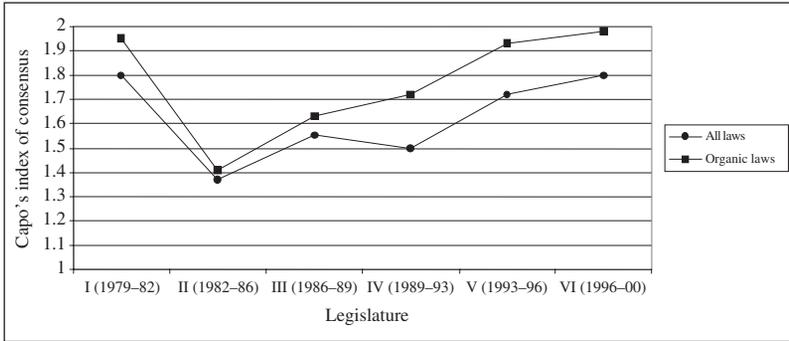
The founding fathers of the 1978 Constitution established that organic laws would require parliamentary consensus in order to be approved. As the pre-constitutional elections of 1977 gave the impression that minority government might be a recurrent feature of Spanish politics, organic laws could only be passed with the approval of opposition parties. The government would need the cooperation of some parliamentary groups in order to obtain the necessary 176 votes (out of the total of 350). Hence, organic laws would be used to regulate the topics on which agreement had not been reached during the constituent period. Organic laws, therefore, would develop and give specific content to some of the general principles set out in the constitution. In practice, however, not everything turned out as expected. The Social Democratic Party (Partido Socialista Obrero Español, PSOE) enjoyed a parliamentary majority during three consecutive terms. During that time, the main opposition party voted against or abstained on a number of organic laws presented by the incumbent party.

The focus on organic laws is methodologically valid. Organic laws account for around 15 per cent of all new pieces of legislation.²⁰ This

¹⁹ Pasquino (ed.), *Opposizione, governo ombra, alternativa*, p. 17.

²⁰ Guerrero, *Crisis y cambios en las relaciones parlamento-gobierno (1993–1996)*, p. 159. This scholar concludes that during the first four legislative terms, organic laws accounted for 15.5 per cent of all new legislation. We have extended his analysis to include the sixth legislative term and the figure is slightly lower, 14.6 per cent. These percentages are similar to those in other Western democracies, where constitutional laws represent between 11 and 22 per cent of all laws; see Rose, *Understanding Big Government*, p. 88.

Figure 1
Capo's Index of Consensus for all Laws and for Organic Ones



Sources: For all laws: Jordi Capo, 'Oposición y minorías en las legislaturas socialistas', *Revista Española de Investigaciones Sociológicas*, 66 (1994), pp. 96–7; and Jordi Capo 'The Spanish Parliament in a Triangular Relationship, 1982–2000', *Journal of Legislative Studies*, 9: 2 (2003), pp. 107–29. For organic laws, our own data.

is a significant amount, and one that has enabled us to construct a manageable database. More importantly, the temporal trend of consensus with regard to all laws can be traced back by simply looking at organic laws. Jordi Capo has created and applied a formula for calculating an index of consensus for all laws approved during the first six parliamentary terms.²¹ We have applied this formula to organic laws alone, and as can be seen in Figure 1, obtained very similar results. This means that organic laws are a good proxy for the entire legislative production. Yet, Figure 1 reveals some interesting differences between organic laws and the rest. It seems that organic laws, particularly from the fourth legislature onwards, were more

²¹ Capo's formula is $\frac{vf}{n * \frac{v}{N}}$, where *vf* stands for the number of votes for the law, *n* is the number of MPs of the main party, *v* is the total number of cast votes, and *N*

is the size of the assembly. If the index has a value of 1, the incumbent party does not obtain support from any other parliamentary group. If the index has a value over 1, the incumbent gets support from other groups: the more so, the greater the number. Theoretically, the index can have a value under 1, for those rare cases in which the incumbent party is unable to obtain a yes vote from its own MPs. See Capo, 'Oposición y minorías en las legislaturas socialistas', pp. 96–7.

frequently the objects of consensus. As we have just explained, this was precisely the aim sought by the founding fathers. Since we consider cooperative behaviour by the opposition as a puzzle to be explained, organic laws reflect this puzzle in its purest form. Finally, the choice of organic laws offers a further advantage. Since organic laws tend to involve constitutional and basic values on which parties may be strongly divided, it becomes easier to test the hypothesis that patterns of consensus are a function of the subject matter of the law.

HYPOTHESES AND VARIABLES

In this section we present our dependent variable, the hypotheses that we use to explain its variation, and the independent variables we have constructed to test these hypotheses.

The Dependent Variable

The dependent variable of our research is whether or not there has been consensus in the approval of organic laws. Note that we are only interested in the patterns of cooperation between the incumbent party and the main opposition party. We contemplate three possibilities: consensus (the main opposition party votes for the bill), dissent (the main opposition party votes against the bill), and lack of consensus (the main opposition party abstains).

Unfortunately, we do not have data on the votes cast by parties. For each bill, we only have figures of the total number of positive and negative votes, and the number of abstentions. Hence, we can only establish whether or not consensus was achieved by examining the distribution of votes in each case. In this context, it should be noted, first, that the sum of the seats held by the incumbent party and the main opposition party has always represented more than 80 per cent of the total. On the other hand, the main opposition party has always accounted for over 60 per cent of all opposition seats. Table 1 shows these data for the different legislative terms. Given these figures, it is always possible to determine whether or not a given law has been approved with consensus. For instance, if an organic law was passed in the fifth legislative period with 310 votes in favour, this means that the main opposition party must have voted for it,

Table 1
Data for the Seven Legislative Periods

	<i>I</i> (79–82)	<i>II</i> (82–86)	<i>III</i> (86–89)	<i>IV</i> (89–93)	<i>V</i> (93–96)	<i>VI</i> (96–00)	<i>VII</i> (00–04)
Seats of the incumbent party	168	202	184	175	159	156	183
Seats of all opposition parties	182	148	166	175	191	194	167
Seats of the main opposition party	121	107	105	107	141	141	125
Percentage of seats held by the incumbent and the main opposition party	82.6	88.3	82.6	80.6	85.7	84.9	88
Percentage of opposition seats held by the main opposition party	66.48	72.29	63.25	61.14	73.82	72.68	74.85
Main opposition party	PSOE	AP	AP	AP/PP	PP	PSOE	PSOE

Table 2
*Patterns of Consensus in the Seven Legislative Periods:
 Number of Laws (Percentages)*

<i>Legislative term</i>	<i>Consensus</i>	<i>Lack of consensus</i>	<i>Dissent</i>	<i>Total</i>
I (79–82)	37 (97.4)	0 (0)	1 (2.6)	38
II (82–86)	18 (43.9)	9 (21.9)	14 (34.1)	41
III (86–89)	10 (55.5)	6 (33.3)	2 (11.1)	18
IV (89–93)	16 (66.6)	2 (8.3)	6 (25.0)	24
V (93–96)	29 (76.3)	4 (10.5)	5 (13.1)	38
VI (96–00)	31 (77.5)	3 (7.5)	6 (15.0)	40
VII (00–April 03)	16 (69.56)	1 (4.34)	6 (26.08)	23
Total	156 (70.6)	25 (11.3)	40 (18.1)	221

since the incumbent party has only 156 seats and the main opposition party has 141. The great imbalance between the parliamentary strength of the main opposition party and that of the other smaller parties removes all doubt as to how the law was passed.

Table 2 reveals that consensus has indeed been the dominant pattern in Spanish politics. Almost 71 per cent of organic laws have been approved with the positive vote of the main opposition party. Only 18 per cent of organic laws have been passed with dissent. Lack of consensus is the least frequent category, applying in only 11 per cent of cases.

There have been, however, significant variations in different legislative periods. The highest degree of consensus occurred in the first term (1979–82): the main opposition party concurred with the incumbent party on 37 out of 38 organic laws. In contrast, the lowest degree of consensus was found in the following term (1982–86), when the PSOE enjoyed a strong majority in parliament: 44 per cent of the laws were approved with consensus, and 34 per cent with dissent.

Table 2 clearly reveals that the first legislative period was exceptional. This was due to a number of factors. First, this was the first term after the approval in 1978 of the new democratic constitution, that is, after a period in which a high degree of consensus had been required in order to reach agreement on constitutional issues. Moreover, some issues of constitutional relevance had not been settled and the rules of the game were not yet fixed. These problems required some kind of cooperative behaviour among all parliamentary groups. Secondly, democracy did not have strong foundations. There was a

real threat of a coup, as the failed attempt of February 1981 made clear to all political forces. One immediate consequence of the aborted coup was the pact signed by the government and the main opposition party on the territorial structure of power, a highly controversial issue in Spain given the demands of nationalist groupings in some regions (particularly the Basque Country and Catalonia). More generally, uncertainty about the survival of democracy encouraged the parties to seek consensus on most matters. Thirdly, there was a minority government and hence the approval of organic laws was only possible with the support of some opposition parties. Finally, and more debatably, the incumbent party suffered from a lack of internal cohesion. During this term, almost 10 per cent of the party's deputies left the party (that is a total of 14 deputies, from November 1981 to July 1982, the period when most organic laws were approved). The argument here is that the weaker the government, the greater the need to reach agreement with other political parties.

Hypotheses and Independent Variables

According to the first and most obvious hypothesis that we consider in this analysis, consensus is more likely under minority governments. An incumbent party with a majority in parliament has fewer incentives to seek consensus with the main opposition party, particularly if the incumbent party is internally cohesive.²² A quick glance at Table 2 confirms that the lowest level of consensus is found in legislative periods II, III, IV and VII, that is, precisely the periods in which the incumbent enjoyed a majority. In order to test this hypothesis, we have tried two specifications. In the first, we have simply created a dichotomous variable in which value 0 corresponds to majority

²² See, among others, Joe D. Hagan, *Political Opposition and Foreign Policy in Comparative Perspective*, Boulder, CO, Lynne Rienner Publishers, 1993; Lynn M. Maurer, 'Legislative-Executive Relations in a Newly-Consolidated Democracy: The Case of Spain', PhD dissertation, Columbus, Ohio State University, 1995; José María Maravall, 'Accountability and Manipulation', in Adam Przeworski, Susan C. Stokes and Bernard Manin (eds), *Democracy, Accountability and Representation*, Cambridge, Cambridge University Press, pp. 154-96; David Altman and Aníbal Pérez-Liñán, 'Más allá de la poliarquía: una aproximación a la calidad de las democracias', *Revista Uruguaya de Ciencia Política*, 11 (1999), pp. 83-105.

government and value 1 to a minority government. We find that 47.5 per cent of organic laws were approved by majority governments and 52.5 per cent by minority ones. In the second, we measure the difference in the number of seats between the incumbent party and the opposition party. The greater the difference, the more powerful the incumbent party is relative to the main opposition party. In terms of the hypothesis, this implies that the greater the difference, the less likely it is that consensus will prevail. For the statistical analysis, we have taken this second measure, namely the difference in seats.

The second hypothesis refers to the original source of the bill under consideration. We maintain that the identity of the author of the bill may affect the likelihood of consensus between the incumbent party and the main opposition party. Of course, most organic laws (63 per cent) were initially proposed by the government. The second most frequent source of initiative corresponds to regional governments or regional parliaments (21 per cent). The other organic laws (16 per cent) were proposed by other parliamentary actors, such as the Senate, minority groups in the Congress, the entire Congress, different combinations of the main opposition party with minority groups, or the main opposition party alone.

If our hypothesis is correct, we should find a lower level of consensus in the case of bills proposed by the government. It seems safe to assume that the government's bills will be more partisan than other proposals. If, moreover, the government has a majority in parliament, then it will have few obvious incentives to water down or modify its proposal for the sake of consensus.

Consensus should be more common over bills originating from regional governments, for at least three reasons. First, these bills have often been already agreed by the main parties at the regional level; furthermore, in the national parliament, MPs tend to favour reinforcing the powers of their home region. Second, territorial issues, which involve the distribution of powers and competencies between the different levels of government, should not be particularly controversial along ideological lines. Hence, it should be easier for the incumbent and the main opposition party to reach agreements. This argument is obviously related to the content of the law, and therefore merges with our third hypothesis. Finally, in a country like Spain, where there is a centuries-old latent problem about the accommodation of some territories within the nation, which has resurfaced from time to time, the main parties have incentives to reach agreements in order to contain

the level of conflict on this issue. We know that minorities that see themselves as permanent losers in the political game may question the legitimacy of the rules of democracy.²³ This could apply in the case of regional or nationalist parties. The main state-wide parties are aware that these minor parties have to be accommodated in the system, especially if the system, as is the case in Spain, has a clear majoritarian bias. Furthermore, these nationalist parties do not try to replace the incumbent: rather, they use the national parliament as a channel in which to express their grievances and demands. For all these reasons, it is reasonable to expect that there will be a high degree of consensus when the proposal comes from the regional level. The remaining cases are mixed in nature, but they tend to share some sort of consociational character, either because the incumbent party concurs with other parliamentary forces or because some opposition forces cooperate among themselves. This implies, again, that we should expect to find more consensus in these cases than in the case of bills proposed by the government.

A simple contingency table crossing the author of the proposal and consensus quite clearly shows that this hypothesis is not unreasonable. The level of consensus over government bills is 61 per cent; in mixed cases it is 81 per cent; and in the case of bills presented by a regional government or political party, it rises to 93 per cent. It is worth noting that in this final category of bill there have been no instances of dissent.

The third hypothesis is rather more complex. As we already noted, territorial issues do not usually coincide with ideological positions on the left–right axis.²⁴ Political competition in Spain focuses mainly on this axis; hence, it might be less difficult to reach agreement on territorial questions than on some other issues. We can take this argument further, following the previous analysis of Klaus von Beyme and Belén Barreiro.²⁵ Generally speaking, the more costly it is for a party

²³ Giuseppe Di Palma, 'Disaffection and Participation in Western Democracies: The Role of Political Oppositions', *Journal of Politics*, 31: 4 (1969), p. 987.

²⁴ See Lipset y Rokkan (ed.), *Party Systems and Voter Alignments: Cross-National Perspectives*, New York, Free Press, 1967, pp. 9 ff.

²⁵ Klaus von Beyme, 'Elite Input and Policy Output: The Case of Germany', in Moshe M. Czudnowski (ed.), *Does Who Governs Matter?*, DeKalb, Northern Illinois University Press, 1982, p. 63; Belén Barreiro, 'Justificaciones, responsabilidades y cumplimiento de promesas electorales', *Revista Española de Ciencia Política*, 1: 1 (1999), p. 167.

to deviate from its previously announced position, the less likely it is that consensus will be achieved. The cost of deviating from the initial position depends on the salience of the issue and on the reasons parties can put forward in order to justify a change or a concession with respect to some prior policy commitment. When the issue is politically significant, and/or when a party cannot find a reason to justify a policy shift, consensus becomes harder.

Technical issues, for instance those about administrative or legal procedures, do not usually feature prominently in political debate. Hence, a high level of consensus can be expected on such issues. In contrast, laws affecting citizens' basic rights are politically much more significant and, moreover, parties find it harder to find reasons to justify any shift on these issues. Barreiro, for instance, has studied the case of abortion.²⁶ This is a highly visible policy that involves fundamental values. How can a party that has been opposed to abortion justify a policy-shift in this area? How could such a party sell its followers a positive vote on a bill legalizing abortion? Abortion is a regulative issue, with no economic consequences, which involves principles and values. Principles and values cannot be easily traded or compromised. But the same holds for religious freedom, the guidelines of education policy, or immigration policy. In these cases, organic laws, by their very nature, cannot avoid dealing with principles and values. Parties will have little room to negotiate, since they are tied by their previous commitments.

Using these two criteria (salience and policy latitude), as well as some substantive affinity among the issues regulated by the bills, we have classified the contents of organic laws into five categories: (1) basic rights (abortion, privacy, honour, habeas corpus, education rights, rights of association and assembly); (2) institutions (the internal rules of bodies such as the constitutional court, the state council, the court of finance, and others); (3) legal (penal code, civil and military codes, procedural rules); (4) electoral and party rules (rules on the electoral system and the internal functioning of parties); and (5) territorial issues, including relations between the central state and both regional governments and international institutions (especially

²⁶ Belén Barreiro, *Democracia y conflicto moral: la política del aborto en España e Italia*, Madrid, Istmo, 2000; 'Judicial Review and Political Empowerment: Abortion in Spain', *West European Politics*, 21: 4 (1998), pp. 147–62.

the European Union (EU)).²⁷ The largest category is the fifth, territorial issues (34 per cent), followed by legal (22 per cent), institutions (20 per cent), basic rights (16 per cent) and finally electoral and party rules (8 per cent).

Category (1) is the least prone to consensus: laws about basic rights are highly visible and parties have little room for manoeuvre. On the other hand, categories (2), (3) and (4) are more technical or procedural, and hence less salient; furthermore, as ideological positions are not a good predictor of the stance parties may take on these issues, it can be argued that parties have considerable leeway. Consensus therefore should be greater than in category (1). Lastly, territorial issues may be more visible, mainly because the territorial question is a crucial one in Spanish politics, but parties have considerable latitude. Moreover, disagreement primarily arises between the small nationalist parties and the two big Spanish parties, but not always between these two parties, which are the relevant ones for our argument. Given the potential threat of these small nationalist parties, the big parties feel that they have to behave responsibly. On the other hand, in the field of foreign affairs, and most importantly Europe, there is a long tradition of consensus in Spain.²⁸

A very preliminary exploration of the data reveals that this hypothesis is in fact quite convincing. In the case of territorial organic laws, 91 per cent have been passed with the approval of the main opposition party. Although part of the explanation for this has to do with the fact that minority parties govern with the support of regional parties that, in exchange for their support, ask for the approval of territorial laws, the level of consensus is nonetheless much higher than in the other extreme, that of bills on basic rights, in which consensus was achieved in only 47 per cent of cases. The contrast is particularly sharp if we focus on those laws on education that involve basic rights. Ten such laws have been approved, and in every case they were the objects of dissent. Although education laws account for only 4.5 per cent of all organic laws, they represent 25 per cent of all

²⁷ As the number of organic laws dealing with foreign affairs is quite limited (10 laws) we have been forced to create a single category combining issues, regional governments and supranational institutions.

²⁸ See Berta Álvarez-Miranda, *Sur de Europa y la adhesión a la Comunidad: los debates políticos*, Madrid, Centro de Investigaciones Sociológicas, 1996.

cases of dissent (and 55.5 per cent of all cases of dissent on bills affecting basic rights). Education is a policy area that embodies the deeper ideological commitments of parties and hence we should expect little consensus.

Between the two extreme categories of territorial and basic rights laws, we have the intermediate categories (2), (3) and (4), where we find a medium level of consensus of around 65 per cent. These laws also show a higher percentage of lack of consensus (abstention) than the extreme ones (categories (1) and (5)). Since these laws are more technical and less ideological, disagreement on technicalities (but not about 'the spirit of the law') leads to abstention, rather than a negative vote, by the main opposition party.

Quite obviously, the classification of the content of the laws proposed here is not the only possible one. However, the underlying logic about the conditions under which we should expect consensus is constant and could be applied to any other conceivable classification. For instance, we could create a category for laws that deal with different aspects of terrorism. There are 11 instances, which in our database are distributed in the five existing categories. As the fight against domestic terrorism largely escapes the ideological battle, we should expect a high degree of consensus in this area. In fact, all 11 laws, including two that come under the category of basic rights, were passed with consensus. Hence, what matters is not so much the typology of laws in itself but the functioning of the logic of political competition indicated above.

ANALYSIS

For the sake of simplicity, the dependent variable combines the categories of dissent and lack of consensus. This is convenient for at least two reasons. We now have a dichotomous dependent variable and we can apply simple logit models. Otherwise, we would be forced to use ordinal or multinomial logit, which produces less manageable results. In any event, the results obtained from ordinal and multinomial logit were almost identical.²⁹ Secondly, given that we have few cases in the category of abstention or non-consensus (11 per cent,

²⁹ These analyses are available on request.

25 cases), the distribution is more balanced if negative vote and abstention are included in a single category. Value 0 corresponds to consensus (70.6 per cent) and value 1 to dissent or lack of consensus (29.4 per cent).

The independent variables are (1) the difference in seats between government and opposition; (2) the author of the bill; and (3) the issue covered in the bill. For reasons explained above, we have added as further control a dummy for the first legislative period (1979–82), in which almost every organic law was an instance of consensus. There is some overlap between author and issue, since regional governments always propose territorial laws (45 out of 45). In order to avoid unnecessary complications, the variable for author combines both regional governments and the mixed cases (0 is the value for regional governments and other possibilities and 1 is for government). In this way, while we do not lose much information, it becomes easier to estimate the net effect of the government being the author of the bill.

The issue variable is nominal and has been broken down into dummies. To facilitate interpretation of the constant term, the base category is territorial issues. When both author and issue are present in the analysis, the constant term represents territorial laws not proposed by the government: this combination of values is very favourable to consensus and therefore we should expect a negative and significant sign for the constant.

We have estimated three logit models (see Table 3). In the first, the issue variable is excluded; in the second, we have left out the author variable; in the third, all the variables are included. The three models provide a reasonable fit. Clearly, the full model is the most powerful. In terms of predictive capacity, the full model correctly classifies 55 per cent of cases of dissent or non-consensus and 84 per cent of cases of consensus.

The 1979–82 control variable is highly significant in every case. It is clear that the historical conditions of the first constitutional legislative term were exceptional. As explained above, strong pressures in favour of consensus existed at that time. Seat difference always has a positive sign. Thus, the greater the difference in seats between the incumbent party and the main opposition party, the lesser the likelihood of consensus. This variable is slightly less significant in the full model (model 3), but its influence is nonetheless clear. This confirms the first hypothesis.

Table 3
Logit Models of Consensus

	<i>Model 1</i>	<i>Model 2</i>	<i>Model 3</i>
Constant	-2.351*** (0.387)	-2.603*** (0.410)	-3.009*** (0.461)
Seat difference	0.014*** (0.005)	0.014*** (0.006)	0.012* (0.006)
79 legislative term	-2.860*** (1.028)	-2.914*** (0.999)	-3.012*** (1.003)
Author	1.338*** (0.394)		0.977** (0.422)
<i>Issues:</i>			
Basic rights		2.311*** (0.558)	1.982*** (0.564)
Legal		1.374*** (0.513)	1.205** (0.524)
Institutions		1.468*** (0.552)	1.181** (0.572)
Electoral rules		1.445** (0.648)	1.227* (0.691)
N	221	221	221
Pseudo R ²	0.18	0.21	0.23
Percentage of no consensus correctly predicted	40.0%	40.0%	55.4%
Percentage of consensus correctly predicted	85.9%	88.5%	84.0%

Dependent variable: 0 consensus, 1 dissent or lack of consensus.
 ***: significant at 1%; **: significant at 5%; *: significant at 10%.
 Robust standard errors in parentheses.

With regard to the author of the bill, the fact that the author is the incumbent party increases the probability of dissent or lack of consensus. As the comparison of the coefficients between models 1 and 3 shows, part of this increase is still due to some association between author and issue. Although we have tried to correct the strong relationship between regional governments and territorial issues, the government proposed 90 per cent of the bills that deal with basic rights. This explains why the coefficient of author is

somewhat weaker in model 3 than in model 1. In any event, hypothesis two is also confirmed.

In model 2 the author variable is excluded and the issue variable is included. A quick comparison between models 1 and 2 reveals that the issue variable is more powerful than the author one. In other words, the content of the bill seems to be a more powerful determinant of consensus than the identity of its author one. The positive coefficient of all issue dummies means that the base category, territorial issue, is the most conducive to consensus. The coefficients of legal, institutions and electoral rules are very similar to each other. By far the most influential category is basic rights, as the probability of dissent increases dramatically for bills of this type. In the full model, all these coefficients are lower due to the association with the author variable, but even so the third hypothesis is validated.

Given that logit coefficients are not easy to interpret, in Table 4 we have calculated some predicted probabilities for the most interesting patterns of covariance. The more extreme issues in terms of consensus are basic rights and territorial laws. Whereas basic rights are inimical to consensus, territorial issues are almost always approved with the support of the main opposition party. To maximize the contrast, we have selected these two issues for analysis in Table 4. Apart from the issue at stake, we have taken into account whether the bill was proposed by the government as well as the difference in the number of seats between the two big parties. For difference in seats, we have calculated the probabilities at the minimum and maximum values (15 and 95 seats respectively). Finally, it should be noted that all the calculations refer to the post-1982 period, as we consider the first legislative term to have been exceptional.

The numbers given in Table 4 refer to the probability of consensus. For instance, if the bill has been proposed by the government, the issue is territorial, and the difference between the two big parties is minimal, then the probability of consensus is 0.86. Several conclusions can be drawn from Table 4.

The difference between the two big parties is much more important in the case of bills affecting basic rights than in cases affecting territorial issues. For instance, when the author is a regional government or some combination of opposition groups, maximum variation in the difference of seats brings a change of 0.07 (0.94–0.87) points for territorial issues and a change of 0.22 (0.70–0.48) points for basic rights. This is interesting, since it seems to suggest that the

Table 4
Predicted Probabilities of Consensus for Different Combinations of Strength of Government, Author of the Law, and Content of the Law

	<i>Issue</i>	<i>Difference in seats between the incumbent and the main opposition parties</i>	
		<i>Min (15)</i>	<i>Max (95)</i>
Author = regional government or others	Territorial	0.94	0.87
	Basic Rights	0.70	0.48
Author = government	Territorial	0.86	0.71
	Basic Rights	0.47	0.26

pressure for consensus on territorial issues is independent of the size of the incumbent party and the main opposition party. We argued above that consensus on this issue springs from the need to accommodate nationalist or regionalist minorities, not with the strength of the government. Table 4 seems to endorse this view.

This point can be confirmed by examining the effect of the author variable. The identity of the author produces a greater change in the case of bills affecting basic rights than in that of territorial issues. Take, for instance, a maximum difference of 95 seats. If the issue is territorial, the authorship changes the probability of consensus in 0.16 points; if the issue is about basic rights, the change is 0.22 points.

It is clear that the more important changes in probability are due to the nature of the issue. The content of the law is more relevant to understanding consensus (or the lack of it) than the size of the incumbent party or the author of the law. The effect of the content of the law is particularly strong when the author is the government. When the initiative comes from the government, the chances of consensus are quite low in the case of basic rights bills, and under 50 per cent even when the distance between the incumbent party and the main opposition party is minimal. This is fully consistent with the mechanism we have proposed. The opposition party cannot vote for a government's proposal on basic rights due to the saliency of the bill and the scant room for manoeuvre a party enjoys given its previous commitments and electoral pledges. Besides, if it is the case that the incumbent party has a large majority and can propose its ideal policy, then it is almost certain that the opposition will

vote against the government (the probability of consensus is only 26 per cent).

CONCLUSIONS

Spain shows a similar trend in consensus to those of other European countries. The main opposition party concurs with the government around 70 per cent of the time when voting on bills of constitutional relevance (organic laws). This high level of consensus takes place in a political system otherwise biased towards majoritarian outcomes. Despite the pressures of majoritarianism, the opposition in Spain tends to act cooperatively: consensus has been dominant except in the second legislative term (1982–86), during the first parliamentary majority of the Socialist government.

We have tried to account for variations in the degree of consensual behaviour displayed by the main opposition party over time and across issues. In doing so, we have restricted ourselves to a quantitative analysis of all organic laws approved between 1979 and 2003. Thanks to this quantitative approach, we can cover the entire universe and maximize variation in all the variables. Nonetheless, the requirements of quantitative analysis have forced us to narrow considerably the range of explanatory factors we consider. Thus, we have confined ourselves to incentives that could be measured for all laws, such as institutional and ideological ones. In contrast, in this analysis we do not take account of, for example, the importance of electoral incentives, or the role of pressure groups, or even short-term goals such as weakening and isolating the government, or undermining its legitimacy. A more thorough study would require a small sample of laws for which all relevant information could be collected.

With regard to the incentives we analyse, it should be stressed that institutional variables are clearly important, but much more so is the subject matter of the bill. As for institutional variables, we have considered the support the government has in parliament and the identity of the author of the bill. As expected, consensus is higher under minority governments. But we can be more precise: over and above a dichotomous classification of governments (majority and minority governments), what really matters is the difference in the number of seats between the incumbent and the opposition parties. The greater this difference, the less likely consensus. With regard to the author

of the bill, the data reveal that when the bill originates from government, the likelihood of consensus decreases in comparison to bills sponsored by any other possible author.

The more innovative part of this article concerns the importance of the content of the bill. We have argued that bills on issues with low salience and whose content cannot be clearly reduced to a position in the left–right axis are more prone to consensus, since parties can reach agreement without sacrificing their ideological principles. Given that parties compete mainly on ideological issues, they do not have much leeway to shift their initial positions on these issues, particularly if they are politically significant ones. Hence, the more ideologically loaded the law is, the less likely it is that consensus will be achieved. In the Spanish case, this finding is borne out by the contrast between territorial and basic rights laws. While consensus is almost absolute with respect to territorial issues (the few cases in which it was lacking tend to be when the government is the author of the law), dissent is dominant in the case of bills affecting basic rights. Of course, there may be other reasons for consensus over territorial issues apart from the ideological argument; these would include the need to accommodate permanent minorities or to contain a conflict which otherwise might lead to political turmoil.

The main lesson to be drawn from the Spanish experience is that government and opposition fail to reach agreements when government is very strong relative to opposition, and/or when the issue under consideration is such that parties cannot find a justification for a compromise. In the Spanish case, the most favourable issues for consensus are terrorism, foreign policy and regional policy; the least favourable is education.

These results can easily be generalized. The kind of analysis we have presented here could be replicated in other parliamentary democracies. While some adjustments would be necessary for each country (for instance, the prominence of territorial issues among laws approved by consensus may well be specific to Spain), the general hypotheses can be formulated without reference to particular features of the national political systems. Basically, these hypotheses state that institutional incentives (the balance of representation between the government and the main opposition party, as well as the actor that proposes the law in the first instance) and ideological incentives (the ideological nature of the issue under discussion) matter in order to explain when the main opposition party is going

to cooperate with the government. Thus, we guess that for laws dealing with basic rights, we should find a lower degree of consensus than for laws dealing with regulative issues such as legal and institutional rules (including international treaties and international organizations). Further comparative research is necessary to confirm the validity of this claim.