

Democratic and Migration Transition in Spain and Portugal:
Catholic Contexts and Secular Responses

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Spain and Portugal reemerged in the mid-1970s as democratic countries of international relevance following roughly four decades of insular, Catholic, fascist dictatorships and subsequently became polities susceptible to the liberal pressures of Western institutions, norms, and geopolitical realities. Immigration and religious pluralism then surfaced as issues of relevance to the public agenda, reflecting all of these pressures. However, in our discussions of either religious plurality in, or immigration to, the Iberian countries we must consider the respective democratic transitions that occurred prior. This is necessary in order to provide more complete political and social context to our understanding of these unique contemporary realities. Ahead of the adoption of democratic constitutions, first in Portugal in 1976 and then in Spain two years later, the only religion of relevance, with political recognition, was Catholicism. And not until some time after migration transition, that is the shift from being nations of emigration to nations of immigration, or countries of positive migratory flow (Castles and Miller 2009: 12), which occurred first in Spain in 1975 and then in 1981 for Portugal (King and Rybaczuk 1993: 176), immigration was never an issue of political salience (Corkill 2001; Cornelius 2004; Méndez Lago 2007; Zapata-Barrero 2009). And it is through contemporary migration, of Muslims in particular, that true tests of the relatively new liberalized laws of religious freedom and equality have come about (Amérigo 2007: 69-70; Klausen 2009: 295-296).

The present paper will consider the connections and parallels between the treatment of religion and migration in the Iberian countries since democratic transition. The fact is that while religion and/or immigration can at times be of the utmost significance to political debate in any nation, the study of both phenomena is often thin within the field of political science. This is especially true in the case of migration, which is often limited for reasons of intentional ignorance, an aversion to its inherently multidisciplinary scope of immigration studies, and a tendency toward theoretically-centered research on the part of most political scientists. The same is true for the study of the politics of Spain and Portugal. While a sub-section of political scientists has thoroughly studied the process of democratization in Iberia (Gunther, Diamandouros and Puhle 1995; Wiarda 1996; Wiarda and MacLeish Mott 2001), and later Spain and Portugal's adherence to, and early years as members of, the European Union (Costa Pinto and Teixeira 2002; Royo and Manuel 2003; Closa and Heywood 2004), relatively little has been written on how these democratic governments have governed.¹ In other words, the consideration of the politics of immigration to both countries, carried out by political scientists specializing in either Iberia or migration, has been spotty at best.²

This inquiry will begin with a brief examination of Freeman's 2005 deliberation on the place of immigration within the political science research agenda, in which he presents and applies three theoretical applications of political science to migration studies. The second section focuses on Cornelius and Tsuda's 2004 examination of what they call the gap and convergence hypotheses evidenced throughout Western countries' migration policies. We then turn to the issue of religious liberalization at the time of democratic transition in both Spain and Portugal. As an empirical example, the following section will provide a case study of sorts on the continuously delicate interaction between Catholicism and Islam in Spain, which, again, would most likely not be an issue today were it not for democratic and

1 Volumes by Heywood (ed.) 1999 and Balfour (ed.) 2005 offer excellent exceptions in the case of post-transition Spanish politics and governance.

2 Works in political science focusing on migration that pay little or no attention to Iberia as receiving countries: Messina and Lahav (eds.) 2006; Messina 2007. On the other hand, Freeman deals with Spain and Portugal as new countries of immigration in his "Modes" article (1995). Political science sources on Spain and/or Portugal that do not address immigration: Heywood (ed.) 1999; Costa Pinto (ed.) 2003; Gunther, Montero and Botella 2004. Gillespie (2005) mentions immigration to Spain within the context of Euro-Mediterranean relations. However, Encarnación (2004) offers an excellent piece on the politics of immigration in Spain. The work of political theorist Zapata-Barrero is fundamental to the understanding of immigration in Spain today (2006 and 2009 cited in this paper).

migration transition having taken place years before. The concluding section will consider how the late 20th-century shifts in Spain and Portugal towards religious liberty, equality, and pluralism demonstrate several similarities, in terms of their similar historical evolution and practical shortcomings, to that of their respective migration policies.

I. Comparative Political Science & Migration Studies

In his 2005 piece “Political Science and Comparative Immigration Politics,” political scientist Gary Freeman takes his discipline to task for generally ignoring international migration in light of the fact that the issue is inherently political. For this reason he equally faults the sister disciplines that also study the phenomenon for so often overlooking the political dimensions of migration. The result of these egregious and recurrent oversights is that most work on migration is a-theoretical, heavily descriptive, and relies on “seat of the pants interpretation” (Freeman 2005: 111). Freeman implores political scientists to bring to bear the analytical tools of their field (2005: 112) and to move past their preoccupation with the causes of migration, why host societies often are generally opposed to it, and why certain sectors of autochthonous communities are in favor (2005: 116). He also criticizes the fact that political scientists, among those in related fields too, have a well-worn fascination with the study of the radical right and anti-immigrantism in host countries (see Costa Pinto 1995; Ellwood 1995; Doty 2003; Norris 2005; Hainsworth 2008), while they completely neglect to consider the coalitions that support migration. For these reasons, Freeman concludes, political science literature on migration lacks theoretical foundation, consists of predominately ad-hoc case studies, is overwhelmingly normative, and lacks rigorous analysis (2005: 117).

Yet Freeman’s concerns should not be taken as surprising. The fact of the matter is that policy making---logically one of the major foci studied within the field of political science---in the area of migration has long been a hodgepodge of ad-hoc and unsuccessful measures (Cornelius and Tsuda 2004) that hardly lend themselves to a thorough, structured, and/or comparative study. Zolberg long ago noted the continuing atheoretical nature of immigration policy (1978: 242),³ while later highlighting the importance of the changing social realities that affect migration in any given country, which is of course unique in each national context (1989: 404). Nonetheless, in a brilliant attempt to facilitate future theory-based political science research on migration and policy, Freeman presents three theoretical prisms through which scholars could and should study immigration: international political economy, rights-based embedded liberalism, and international institutionalism. All three will be briefly commented upon herein given that they are highly relevant to the consideration of religious liberty as well, especially in the respective cases of the Iberian countries.

The first theoretical agenda Freeman presents for the purposes of studying immigration is interest-centered international political economy. Through this framework, hypotheses may be tested concerning the concentration or diffusiveness of the costs and benefits involved in immigration to predict levels of conflict and the presence of interest group politics within host societies (2005: 118). Quickly applying this rubric to the respective cases of the Iberian countries, I would argue that majoritarian politics would result, as both costs and benefits are diffuse throughout society. According to this theory, extremely low levels of conflict should result as a result of migration.

³ For a more recent concurrent opinion, see Meyers, Eytan. *International Migration Policy: A Theoretical Comparative Analysis*. New York: Palgrave MacMillan, 2004.

But explanations are never so simple. Freeman argued some 15 years ago that within liberal democracies, earlier contact with the phenomenon of migration is important in determining how immigration is perceived and handled today by host societies (1995). He separates contemporary host societies along the following lines: traditional settler states (United States, Canada, Australia), Western European States (France, Germany, Switzerland) and Southern European “new countries of migration” (Italy, Greece, Spain and Portugal).⁴ But across the lines of this typology, Freeman observes a general concentration of benefits and diffusion of costs, resulting in low levels of migration-driven conflict in western societies; however, he acknowledges that one of the shortcomings of such analysis is that post-industrial change has fueled fear in mass opinion by concentrating costs in many host countries, thus enabling the rise of radical right populism (Freeman: 118-119). Conversely, in the respective cases of Spain and Portugal, the abrupt shifts in both countries from the primary sector (agriculture) to the tertiary sector (service-based economies), brought about by democratization and reintegration into the European and global marketplaces, practically skipping a long industrial-driven phase of development, as was typical in most modern countries of immigration, has limited the populist anger brought about by the concentration of perceived costs of immigration on the part of industrial workers in other European societies.⁵ In other words, modernization without a major period of industrialization has effectively diffused the costs of immigration today, limiting right-wing populist backlashes, in the Iberian countries. And such rapid change has facilitated the recognition on the part of the Spanish and Portuguese of the demand for cheap, low-skilled labor in the service sector. This swift modernization has both reduced birth rates and has led to increased autochthonous education levels, which have consequently brought about the need for imported labor (Corkill 2001). If we accept this as the case, i.e., that rapid economic development influences society in this positive way, perhaps connections may be made to the acceptance of vertiginous liberalization and correspondingly low levels of contention surrounding religious liberty as well.

The second theoretical proposal of Freeman’s is that of embedded liberalism and the importance it gives to individual rights in Western, democratic societies in the post-World War II era. A premium has been placed on individual freedoms in the wake of 20th-century colonialism, Nazism, and the American Civil Rights movement; because of this, contemporary Western democracies have demonstrated a strong commitment to antiracism and multiculturalism (Freeman 2005: 120). Despite this reality, radical right populism and anti-immigrantism has flourished in some countries (Doty 2003; Norris 2005). That being the case, Freeman observes that embedded liberalism facilitates path dependency, accentuating the weight and influence of historical antecedents, in the elaboration of immigration policy (2005: 121). The importance of history with regard to the marginalization of the radical right and liberal openness to immigration in Spain and Portugal during the present democratic era has been remarkable (Costa Pinto 1995; Ellwood 1995; Encarnación 2004; Hainsworth 2008).⁶ These same factors can also be applied to the study of religious freedoms in both countries, as we will soon see.

The third and final theoretical framework from the field of political science offered by Freeman for the study of immigration is that of institutionalism. He notes that institutional pressures on a given

⁴ This is the basic breakdown also used by Cornelius, Tsuda, Martin and Hollifield in *Controlling Immigration* (2004).

⁵ The shift from the agriculture to service sector employment was more pronounced in Spain. See Gunther, Montero and Botella 2004: 68-74.

⁶ Méndez-Lago (2007) and Zapata-Barrero (2009) observe and analyze survey data on the openness and acceptance of immigration among public opinion in Spain, but Méndez-Lago adds the caveat that much qualitative research is needed to explain these data.

country can have a major impact on immigration policy decisions, although this will vary depending on the extent to which a country adopts and accepts liberal, rights-based institutions (Freeman 2005: 122). For example, Castles and Miller affirm that as the European Union expands, so does the Western area of immigration, given that EU candidate countries become immigration countries overnight (2009: 114). As the power of the EU has expanded over time, and given that newer members tend to be substantially weaker than founding members and earlier adherents were and are currently, the EU is quite able to dictate policy requirements and obligations for its aspirants, especially concerning migration (Castles and Miller 2009: 113-117; Geddes 2003: 182).

This was certainly the case as Spain and Portugal sought to join the European Union. When it joined the EU in 1986, Spain, a former land of emigration, was forced to change its immigration laws to conform to the demands of the Union, both in terms of liberalization and border protection (Cornelius 2004: 391). Salazar's Portugal, as a founding member of NATO was less ostracized by the international community than the Franco regime in Spain, had realistically flirted with EU membership prior to democratic transition and discovered the institutional policy pressures of Europe as early as 1961 (Heisler 1992: 606-607). Logically, the regime socialization of late 20th-century Spain and Portugal, while both countries democratized and reengaged with Europe and beyond, were bound to be applied to Eastern European countries prior to being granted EU membership in order to control migration flows (Heisler 1992: 617).

The important factor to keep in mind regarding the institutionalist perspective, Freeman claims, is how relatively open policy makers are to external influence. The key question becomes: "How far can state decision-makers act independently of societal forces?" (Freeman 2005: 123). We see that concerning migration, in the Iberian countries, they have long been susceptible to liberal, institutional pressures and have reacted accordingly. In the early years of democracy in both countries, it is important to remember, these were the same decision-makers who legislated greater religious freedom. But before turning to the issue of religious liberty in Spain and Portugal, we shall quickly move from the theoretical to the practical issues involving migration policy making in the Western democracies in order to draw parallels to the elaboration and execution of the laws pertaining to the freedom and equality of religion in Iberia.

II. Migration Policy: Gap and Convergence Hypotheses

Since the end of the Second World War immigration has become an increasingly important phenomenon, economically, socially, and politically, with an increasing demand for cheap labor throughout Western countries. Supplied by sender societies often through colonial and geographic links, liberal, democratic governments of importer countries have been faced with the daunting tasks of ensuring that employment targets be met, that unwanted immigration be limited, that host society backlash be prevented, and that immigrants be integrated. Given that most receiving countries face these same challenges, their policies converge on similar, homogenous courses of action; in the attempt to fulfill such a tall order, Cornelius and Tsuda have identified gaps in the practical application of these broad policy requirements (2004).

The "Gap Hypothesis" claims that imperfect policies have unintended consequences, which is to say, migration policies throughout the Western world do not control migration flows. This gap between aims and outcomes, assert Cornelius and Tsuda, is due predominantly to the fact that policies

are inadequately implemented and/or enforced (2004: 4-5). Examples of flawed policies abound. Temporary or guestworker programs are the clearest representatives of flawed policy given that they have never been entirely temporary since many guests have become permanent residents over time (Cornelius and Tsuda 2004: 7). With regard to Germany and Belgium, respectively, active recruitment of guestworkers in the 1945-1973 period brought in large numbers of foreign laborers, but the reality was that most of these workers, mostly those *not* from Southern Europe, never left (Martin 2004; Suárez-Orozco 1994). The best explanation for this phenomenon, provided by Castles and Miller in their comparison of guestworker programs in Australia and Germany, was not simply that the migrants wanted to stay but rather that economic hardships impeded the return of foreign laborers to their countries of origin. Given that guestworkers entered the labor force at the bottom, they were unable to earn sufficient amounts of money from the time of their arrival and thus had to work their way up. This meant that they were unable to quickly achieve their economic goals and thus hindered their ability to either move or return home. Inabilities to move then led logically to permanent settlement in the host country (Castles and Miller 2003: 206).

Other examples of policies that fail to meet outcome expectations include the following: border enforcement in host countries and development aid to sender countries. Cornelius and Tsuda state matter-of-factly that these gaps are due to inequality between sending and receiving societies and labor shortages in host countries (2004: 8-10). For example, gross national income (GNI) purchasing power parity differences between Spain and Morocco are greater—5.5 times higher in Spain—than those between the United States and Mexico—4 times higher in the US— (Moré 2004: 193-194). Demand for labor is driven by absolute and relative labor shortages in host countries; the former due to aging and thus decreasing populations resulting in fewer native workers and the latter meaning that as education levels increase, relatively fewer native workers are willing to take low-paying, menial labor, and service jobs (Cornelius and Tsuda 2004: 10; Castles and Miller 2009: 117-120). Concerning aid measures as a means to reduce emigration from poorer countries, Corkill noted nearly 10 years ago that development assistance offered by Madrid to Rabat is often outweighed by remittances from Moroccan workers in Spain, which should have long ago called into question the utility of such strategies given that the growth rate of remittances will increase exponentially faster than aid over time (2001: 838).

Cornelius and Tsuda conclude that the cause of these gaps is due to the fact that declared, official policies must be different from the intentions of those who make it; logically, clearly defined and easily attainable outcomes cannot possibly be the products of ambiguous policy-making and inconsistent implementation (2004: 14). That having been said, they also observe migration policy convergence throughout the Western countries. Policies among European capitals resemble those of their neighbors to the extent that no deviant cases exist (Cornelius and Tsuda 2004: 15-16). In the case of immigration, further reasons for such convergence include: parallel paths of development, similar pressures, challenges, histories, and legacies (this is especially true in the case of the Iberian countries); increasing regional integration, predominantly via the European Union; unified reactions to global events and geopolitical realities; and analogous, but far from identical, political environments resulting from the interaction between public opinion and party protagonism, both in government and in opposition (Cornelius and Tsuda 2004: 17-20).

Like Freeman's three political science-based theoretical approaches, Cornelius and Tsuda's practical hypotheses concerning gaps and convergence may also be applied to the examination of policy-making regarding religious liberty. The ideas of these authors may be neatly squared with the political, social, and religious pressures and realities faced by Spain and Portugal vis-à-vis the Catholic

Church at the time of democratic transition. What adds relevance and interest to such considerations is that migration transition has brought religious gaps to a head, with Spain offering a very clear example.

III. Religious Freedom in Democratic Portugal & Spain: *de jure* Convergence

In the aftermath of the bloodless 1974 Carnation Revolution, which brought down the Caetano regime in Portugal, as during the uneasy and at times uncertain months after the death of Francisco Franco in Spain just over one and a half years later, the relationship between the State and the Catholic Church, as well as the Church's role within society writ large, was called into question. While an interesting and rich field of inquiry, it is not within the scope of the present paper to analyze the latter, the Church and society.⁷ It is on the new Constitutions and subsequent laws pertaining to religious liberty in Spain and Portugal that we will now focus.

Fusing the work by de la Hera and Klausen we may present a typology of church-state relations in democratic societies. Relations may be characterized as: 1) religious monopoly; 2) religious corporatism; 3) separation with cooperation (de la Hera), or state-subsidized pluralism (Klausen); 4) separation without cooperation; or 5) non-existent, as in the case of completely secular states (de la Hera 2007: 67-68; Klausen 2009: 291).⁸ What de la Hera goes on to stress, much like Zolberg with regard to immigration, is the overwhelming importance of historical and social realities, particular to each country in its evolution of legal approaches to religion and church-state relations (de la Hera 2007: 69). However, in line with Freeman's approach to liberalism and institutionalism and analogous to Cornelius and Tsuda's convergence theory, Gould notes similarities throughout Europe regarding codified religious freedom, especially regarding social and religious organization (2009: 58). In fact, despite nuanced differences presented in the above typology, Klausen affirms that religious pluralism drives state policies throughout Europe, even if unintended and unequal consequences are the result (2009: 294). In the case of the Iberian countries the subject is so interesting today because of the drastic shifts in religion-state relations that occurred after decades of authoritarian rule by regimes closely linked to the Catholic Church, whose nationalist ideologies depended so heavily on religious myths and imagery, to converge on open, pluralist arrangements in the contemporary European context. But what adds to the relevance of the present examination of the modern Spanish and Portuguese states and religion are the similarities of both states' experience with contemporary immigration.

A. Portugal

The Revolution of 25 April 1974, according to de Sousa e Brito, brought with it the need for a new legal framework regarding religion in Portugal (2007: 13). In the early years of the Salazar regime, in 1940, a Concordat was signed with the Vatican that directly discriminated against all other religions. Throughout the dictatorship, no religion aside from Catholicism was publically acceptable. During the Colonial Wars, beginning in 1961, a non-Catholic's allegiance to the nation was doubted (de Sousa e

⁷ For an extremely insightful overview of religion and society in democratic Spain, see: Hooper, John. *The New Spaniards (Second Edition)*. London: Penguin Books, 2006, especially Chapter 8.

⁸ It should be noted that de la Hera and Klausen are not explicitly in agreement regarding the classification of state-church arrangements. While there is much overlap between their views in the typology presented above, it is not within the scope of this paper to flesh out the nuances between the two authors.

Brito 2007: 14). However, by 1971 a law was passed allowing greater religious freedom, but without guaranteeing equality of religion.

In 1975, as the current Portuguese Constitution was being written, the 1940 Concordat was modified, allowing for liberalization and recognition of religious associations and communities. Entering into force the following year, Article 41 of the Constitution guarantees that in Portugal “freedom of conscience, religion, and worship are inviolable.”⁹ The same phrasing was used in Article 1 of the 2001 Law of Religious Freedom. These freedoms are the only rights that cannot be suspended by the government in a state of emergency. The Constitution of 1976 is also very accepting of international law, incorporating the United Nations Universal Declaration of Human Rights. But despite the seemingly progressive and open approach to religion on the part of the Portuguese state after the 1974 Revolution, it was not until the 2001 Law of Religious Freedom was ratified that the 1940 Concordat was replaced and thus finally nullified (Soares Loja 2002: 195-197). However, another agreement with the Vatican was signed in 2004 that reiterates the historical ties between the Holy See and the Portuguese Republic and its people (de Sousa e Brito 2007: 17-23).¹⁰ For these reasons, de la Hera classifies Portugal as having the first type of state-religion relations, separation with cooperation (2007: 68). While Klausen does not specifically address the state-faith situation in Portugal, and given that he is more critical of these codified arrangements, he would assuredly define the situation there as having shifted from a religious monopoly to one of religious corporatism. The subtleties of the differences will be fleshed out throughout the following sections.

B. Spain

Spain is classified as having the same arrangement as Portugal, separation with cooperation (de la Hera 2007: 68) and a similar assumption of difference of opinion by Klausen is also noted herein. Both Iberian countries have of course had long-lasting and influential relationships with the Holy See. However, the bilateral relations between Spain and the Vatican have had more ups and downs than those of Portugal in recent centuries (de la Hera 2007: 69-70). For example, until the latter half of the 19th Century, Spain was a confessional, Catholic state. While the Constitution of Cádiz, written in 1812, is known for being progressive for its time, its 12th article states expressly that: “the religion of the Spanish nation is and will perpetually be the Catholic, Apostolic, Roman, the only truth. The Nation will protect the religion through just and wise laws, and prohibits the practice of any others.”¹¹ The Constitution of 1869 provided greater acceptance and tolerance of other faiths for both foreigners and Spaniards, even allowing for public worship under the guise of universal moral and legal norms, while still obliging “the Nation” to maintain the Catholic faith.¹² However, by the time of the Second Republic, in the Constitution that entered into force in 1931, the declared position of the government

9 “A liberdade de consciência, religião e culto é inviolável.”

10 The 2004 Concordat serves to “reforçar os laços históricos” between the Holy See and the Portuguese Republic in order to “consolidar a actividade da Igreja Católica em Portugal em benefício dos seus fiéis e da comunidade portuguesa em geral” (emphasis added).

11 “La religión de la Nación española es y será perpetuamente la católica, apostólica, romana, única verdadera. La Nación la protege por leyes sabias y justas, y prohíbe el ejercicio de cualquier otra.”

12 Article 21: “La Nación se obliga a mantener el culto y los ministros de la religión católica. El ejercicio público o privado de cualquier otro culto queda garantido a todos los extranjeros residentes en España, sin más limitaciones que las reglas universales de la moral y del derecho. Si algunos españoles profesaren otra religión que la católica, es aplicable a los mismos todo lo dispuesto en [la frase] anterior.

was that “the Spanish state has no official religion.”¹³ Thus such a radical break with the religious roots of Spain was no small contribution to the downfall of the Republic and that, perhaps ironically, some religious liberty was granted by the Franco regime’s recognition of the 1965 Vatican Declaration of Religious Freedom (*Dignitatis Humanae*) through the 1967 Spanish Law of Religious Liberty (de la Hera 2007: 70). While this legislation was not well received by Spanish Catholics on the whole, it of course did not mean that the Catholic Church did not have a favored relationship with the Spanish State or within Spanish society. But what it did do was open the door for non-Catholic groups to gain a foothold (Tamayo 2009: 104). The Concordat of 1953 solidified relations between the Francoist regime and the Vatican, was revisited in 1976,¹⁴ and remained in force until the ratification of the Constitution of 1978.

So while there was some *de facto* religious freedom by the time of democratic transition in Spain, the Catholic Church maintained privileged relations with the Spanish state. The 1978 Constitution signaled a new age, a movement toward reconciliation and away from the religious conflict and tension, present throughout the 20th Century, offering a new, global, concept of the connection between the political and the religious (de la Hera 2007: 71-72); there could be no state religion yet the state could not be anti-religion (Amérigo 2007: 55). This new Spanish concept of, and approach to, religion was positive and non-hierarchical, based on religious liberty, equality, and non-discrimination. The new Constitution was a product of consensus, written with tolerance in mind as true constituent principle and a basic element of democratic socialization, as each of the previous constitutions only satisfied certain ideological interests when they were written (Amérigo 2007: 67-68). Given the changes brought about by Franco’s death, most importantly Spain’s re-opening up to the world and the pressures borne by liberal norms of the times, de la Hera posits that we could reach the conclusion that such openness is the only option available to the modern democratic state (2007: 72-73). Indeed Amérigo makes, in his words, a radical affirmation: “the only framework of full recognition, exercise, and material development of the right of religious liberty is the secular state [*el estado laico*]” (2007: 55).¹⁵ Providing for context and nuance, de la Hera clarifies that religiosity need not necessarily be incompatible with the functioning of a democratic state, as long as equality among religions is protected; he cites the United Kingdom’s relationship with the Anglican Church as an example (2007: 74-75).

The relationships that Spain has maintained with the Church and with liberal, western society have evolved in such a way that the framers of the current constitution had little choice but to recognize both the presence of Catholicism in Spanish society at the time and the importance of religious equality in a democratic state. A complete, codified shift toward the French-style *laïcisme* (secularism) of the vehemently anti-clerical Second Republic would have been too abrupt for Spanish society; yet to remain a confessional, Catholic state would have implied a certain religious-ideological continuity with the Franco regime (de la Hera 2007: 75-76; Amérigo 2007: 55-69). Either of those would have done nothing to heal societal wounds, still open today, that predate the Spanish Civil War and would have repeated the errors of the previous constitutions, already cited herein addressed by Amérigo. And thus Spain has been left with a system of *laïcité* (non-ecclesiasticism) that both assumes the freedom and equality of religion without the state either ignoring the phenomenon of religion (albeit with a *de facto*

13 Article 3: “El Estado español no tiene religión oficial.”

14 While the 1976 agreement acknowledged a “profundo proceso de transformación que la sociedad española ha experimentado en esos últimos años,” it later reiterated that the Spanish state recognizes in its legislation that “debe haber normas adecuadas al hecho de que la mayoría del pueblo español profesa la Religión Católica.”

15 “El único marco de pleno reconocimiento, ejercicio y desarrollo material del derecho de libertad religiosa es el Estado laico.”

preferential eye toward Catholicism), or allowing religious beliefs to drive state policy (Amérigo 2007: 68-69). In other words, the 1978 Constitution recognizes that the state is aconfessional but that the society is not. Article 16.1 states that: “Freedom of ideology, religion and worship of individuals and communities is guaranteed;” while Article 16.3 adds and qualifies that: “No religion shall have state character,” but “[t]he public authorities shall take into account the religious beliefs of Spanish society and shall consequently maintain appropriate cooperative relations with the Catholic Church and other confessions.”¹⁶ Amérigo notes that Section 3 of Article 16 is “contrary to Spanish history” and thus represents the greatest step forward toward the establishment of a secular state (2007: 55).

As we have seen above, some freedoms relating to religion, including the right to associate and to practice a religion other than Catholicism, predate democratic transition (1967). However, the Constitution clearly expanded and strengthened such rights. For example, Article 22 stipulates a very broad right of association, which can be exercised by any religious sect (Motilla 2001: 16). But, as many of the authors cited in this inquiry have noted, there remained room for improvement, for greater religious freedom in Spain. Thus by 1980, the Spanish Congress of Deputies passed the Organic Law of Religious Liberty. The purpose of this law was threefold: 1) to facilitate the growth and development of other religious organizations vis-à-vis the Catholic Church; 2) to strengthen religious pluralism in Spain, and; 3) to establish the framework through which religious entities could enter into a cooperative agreement with the state (Escobar Stemmann 2008: 68-69; Amérigo 2007: 71-73; Tamayo 2009: 104-105). In order to benefit from this law, confessions with a presence in the country must be recorded in the government’s *Registro de Entidades Religiosas* (Registry of Religious Entities). This is required prior to negotiating an official agreement with the state (Motilla 2001: 16-18) and demonstrates Spain’s state-confession classification above as “separation with cooperation.” In fact, Spain is probably the world leader in codified, institutionalized religion-state relations (de la Hera 2007: 79; Zapata-Barrero 2006: 149-150).

Proof of the success of this system is that in a country that has had a bloody history, with the role of the Church playing no minor part in past conflicts, since the approval of the 1978 Constitution there have been several changes of government, from center, to left, to right, and back to left, and no further religiously motivated grievances, much less violence (de la Hera 2007: 77-79). While de la Hera acknowledges that the Spanish system is not as perfect in practice as it is on paper, and superficially a claim could be made that the mere mention of the Catholic Church in the current constitution puts that particular faith at the top of a theoretical hierarchy in church-state relations, he concludes that any move in another direction, such as to officially recognize the Catholic Church with some most-favored-religion status, would be an irresponsible step, undoubtedly in the wrong direction (2007: 78-80).

IV. Religious Freedom in Iberia? Managing Islam in Spain and Portugal

After considering the state of migration studies via both political science theory and practical observation, and then turning to the process of religious liberalization in two countries that are relatively new to both democracy and immigration, it is easy to see that the Iberian countries provide good comparative case studies from which to examine similarities between how religion and

¹⁶ Article 16 (in its entirety): 1) Se garantiza la libertad ideológica, religiosa y de culto de los individuos y las comunidades sin más limitación, en sus manifestaciones, que la necesaria para el mantenimiento del orden público protegido por la ley; 2) Nadie podrá ser obligado a declarar sobre su ideología, religión o creencias; 3) Ninguna confesión tendrá carácter estatal. Los poderes públicos tendrán en cuenta las creencias religiosas de la sociedad española y mantendrán las consiguientes relaciones de cooperación con la Iglesia Católica y las demás confesiones.

immigration have been dealt with, and how and why policy shortcomings have evolved. For example, the Portuguese Republic's relationship with the Vatican, codified in the Concordat of 1940, was not completely nullified until 2001, demonstrating favor for the Catholic Church over other religious institutions despite a supposed liberalization enshrined in the 1976 Constitution. But in particular it is the "policy gap" in the Spanish state's institutional relationship with Islam, viewed through Freeman's theory recommendations for the study of the phenomenon of migration and Cornelius and Tsuda's policy hypotheses, that offers a perfect example of the similarities between the treatment of migration and religion in receiving countries.

A. Portugal

Despite a slow, official acceptance of other faiths via legislation in 1971 and 1975 and the 1976 Constitution, as has just been mentioned, Portugal did not completely replace its 1940 Concordat with the Vatican, which provided the Catholic Church with a clearly privileged position, until 2001 (Soares Loja 2002: 195). And then three years later, in 2004, another Concordat was signed that reiterated the historical ties between Portugal and the Church, supposedly to the benefit of not only Catholics in the country but the Portuguese people in general (de Sousa e Brito 2007: 23).

Throughout this time, starting from before the Revolution, the presence of Muslims in Portugal has continuously grown (Bosch Vila 1986). In 1968, the *Comunidade Islâmica de Lisboa* (Islamic Community of Lisbon) was founded with some 30 members (Soares Loja 2002: 192). Immediately after the overthrow of the Salazar/Caetano regime many Muslims from former Portuguese colonies, such as Mozambique, Goa, Timor and Guinea Bissau, immigrated to the Metropole (Bosch Vila 1986: 70). In 1976 the *Centro Islâmico de Portugal* (Islamic Center of Portugal) was founded, built with the financial assistance of Saudi Arabia, Kuwait, and the United Arab Emirates. Construction of Central Mosque of Lisbon, however, while submitted in 1966 was not granted until 1978, after the ratification of the Constitution, and was not opened until 1985 (Soares Loja 2002: 193-194).

Because of a long history in Portugal and due in particular to colonial ties as well as the institutional setting provided by the Portuguese Constitution, Gould expects "Muslim elites in Portugal to feel particularly at home in their host society" (2009: 58-60). While this may or may not be true, Soares Loja notes several privileges of the Catholic Church over other faiths, which was codified law until 2001. These included: 1) the Roman Catholic Church was the only religious community recognized as a church and a corporate body of international law; 2) Catholic-related news was heavily favored, in terms of coverage and exposure, by the state-run media; 3) only Roman Catholic marriages were considered both civil and legal; 4) Priests were allowed in hospitals and prisons at any time, while other clergy members were treated as visitors; 5) all chaplains in the hospitals, jails, and the military were exclusively Roman Catholic; 6) only the income of Catholic priests was not taxed, that of other clergies was; and 7) only the Catholic Church was exempt from all taxation on its activities, such as value-added tax, inheritance tax, donations, and property tax (Soares Loja 2002: 196-197). While the 2001 Law on Religious Liberty addresses all of these inequalities, Soares Loja also warns with specific reference to the Muslim community in Portugal that "the extent to which this will be the case will depend on how far the principle of the separation of church and state will be observed in practice" (2002: 197-201).

B. Spain

Occupying a less-than-enviable place in the Spanish collective memory, Muslims are again, just over 500 years after being forcibly removed from what became modern Spain, an evergrowing and

influential group in Spanish society (Aramburu 2004; Zapata-Barrero 2006: 145-148). The first groups of Muslims to make a mark on contemporary Spanish society began arriving to universities in Spain as students by the late 1940s from places such as Syria, Palestine, Jordan, and Egypt, as the Franco Regime sought to establish diplomatic relations with the Middle Eastern countries (López García and Planet Contreras 2002: 158-159). After the death of Franco in 1975, many migrants, members of the Muslim Brotherhood, came to Spain from these same countries fleeing political oppression in their respective homelands (Sánchez Nogales 2004: 86-88).¹⁷ Today, there are an estimated one million Muslims currently residing in Spain, mostly in Madrid, Catalonia, Valencia, and Andalusia; most, around 800,000, are Moroccan and the total includes some 25,000 to 50,000, depending on who is estimating, *maladies*, meaning “adopted ones,” Spanish-born converts to Islam (Noya 2007: 5; Álvarez-Miranda 2009: 185-186). The numbers are hardly exact given that there are 200,000 children and adolescents born in Spain or who arrived at a very young age, and most migrants who have arrived in more recent years are mostly rural, poor, and undereducated, disorganized as a group, and from an increasingly diverse pool of countries, including and especially Algeria and Pakistan, despite the overwhelming majority still coming from Morocco (Barbería 2007: 2-3; Molina 2007).¹⁸ López García and Planet Contreras point out, logically, that among the groups mentioned above, the Muslims most integrated into Spanish society are the converts, followed by the former students, and then the present-day immigrants (2002: 163-165).

Immigration, particularly from Morocco to Spain, can be explained through several phenomena. The drive for Spanish integration into the European Community, which is also the case in Portugal since the early 1980s has introduced numerous migratory “pull factors” (Sendell, Sorroza and Olivé 2007: 1-3), such as increased economic prosperity, a subsequent need for low-skilled labor (Corkill 2001), and ever growing per capita income inequality between the northern and southern shores of the Mediterranean (Amirah Fernández 2007: 2; Moré 2004). Also, in 1985, as an attempt to further regional integration, all but neglected by Francoist foreign policy, Spain introduced a family reunification law, targeted toward the Moroccan community, which has facilitated the creation of a network for immigrants that has in turn increased the visibility of Muslims throughout Spain (Arigita 2006: 35). Indeed, nearly two-thirds (65%) of Moroccans currently living in Madrid came between 1985 and 1995, with nearly one-third (31%) arriving after 1995 (Álvarez-Miranda 2007: 11-12). As a natural consequence, Spain hosts some 450 recognized mosques (Escobar Stemann 2008: 70). While hundreds more have petitions for recognition pending, there are an estimated 200 mosques and prayer rooms operating outside of the legal framework, which, as will see below, is becoming the norm (Zapata-Barrero 2006: 152).

The rise of greater international integration and immigration has also brought about the rise of political activism domestically in Spain, undoubtedly consistent with the relevance of the theories presented by Freeman. The birth of many political, civil, and religious associations and organizations has fostered increased participation on the part of the civil society. Muslims, going as far back as the late 1960s after Spain’s slight liberalization of religious freedom laws, have not been left out. The initial groups to be formed were local, in the Spanish North African enclaves of Melilla in 1968 and then Ceuta in 1971; the *Asociación Musulmana de Melilla* was the first group to be registered with the *Registro*

¹⁷ For an excellent book on the phenomenon of political migration from the Middle East to Europe during the mid-20th century and how it differs from contemporary immigration and second and third generation Muslims in Europe, see Pargeter 2008.

¹⁸ Additionally, these figures have continuously been on the rise as between 1997 and 2007, Spain has received more net migration flows than any other of the EU-15 countries; see Sendell, Sorroza, and Olivé 2007: 3.

de Entidades Religiosas (Sánchez Nogales 2004: 70-71). The first association with a national scope, and second to be registered with the central government, was the *Asociación Musulmana de España* (AME), founded in 1971 by the Syrian-born nationalized Spaniard Riay Tatary Barky (López García and Planet Contreras 2002: 166-167).

Throughout the 1980s more and more Muslim immigrants arrived to Spain and, consequentially, the presence of Islam in Spain became increasingly apparent and unavoidable. In light of the Spanish State's desire to have a role in the evolution, or at least the recognition, of all religious groups and institutions, one major problem became evident in how Spain sought to manage its relationship with the Muslim community (or, communities) within its borders. The State was actively seeking to incorporate the Muslim communities into its officially recognized *Registro de Entidades Religiosas*. But in order to negotiate an official agreement of cooperation, it required an exclusive negotiating partner to represent all Muslims in Spain, à la Spain's relationship with the Catholic Church, in order to fulfill the prescription set out in the 1978 Constitution and the 1980 Law of Religious Freedom. The State's need to oversee such organization was seen by many Muslims as interference, but it also brought to the surface the fact that there was not one voice to serve as leader of the Muslim community and as an interlocutor with the government.

The institutionalization of relations with religious and minority groups both showed some cohesion but also led to a great rupture within the Muslim community of Spain (Arigita 2006: 33; López García and Planet Contreras 2002: 168-169; Mantecón Sancho 2001: 112-113; Zapata-Barrero 2006: 150). For example, FEERI (*Federación de Entidades Religiosas Islámicas de España* or the Federation of Islamic Religious Entities of Spain), whose membership has continuously been dominated by Spanish converts to Islam, was founded in 1989 as an umbrella group for some 80 Muslim associations scattered throughout Spain, including the AME, in order to negotiate an agreement with the Spanish government (Sánchez Nogales 2004: 87-89). But FEERI fractured as a result of negotiations with the Spanish government. The AME broke away in 1991 and formed the UCIDE, (*Unión de Comunidades Islámicas de España* or the Union of Islamic Communities of Spain), founded by the same Riay Tatary Barky. The more conservative UCIDE, whose membership has consisted of associations of earlier Muslim immigrants to Spain who often maintained an air of superiority toward the Spanish/convert-led FEERI, registered with the *Registro de Entidades Religiosas* in 1991 (Chaib 2008; Sánchez Nogales 2004: 86-89; Escobar Stemmann 2008: 69). But again, by law, the State required one exclusive interlocutor to represent the Muslim community to sign an agreement, and although the State negotiated with both the FEERI and the UCIDE, the end goal was to get both groups to agree to the same document (Mantecón Sánchez 2001: 112-113). This then led to the creation, in February of 1992, of the *Comisión Islámica de España* (CIE, or Islamic Commission of Spain), comprised of members of both FEERI and UCIDE, but at the time without the official consent of both organizations and despite protest from many other smaller groups (Sánchez Nogales 2004: 86-96). Nonetheless, the arrangement was suitable enough for the state given that the two umbrella federations were able to speak on behalf of 70% of the Muslim community in Spain (Escobar Stemmann 2008: 70). In April of 1992, the State signed its *Acuerdo de Cooperación* (Agreement of Cooperation) with the CIE. The authority of such a seemingly ad-hoc body was immediately called into question throughout the Muslim community in Spain, as was the legitimacy of the agreement in the eyes of many Muslims (Arigita 2006: 34-36).

Nonetheless, the Agreement of Cooperation has been lauded by both parties to it and beyond. Laurence highlights positive aspects of the arrangement in that "authorities have opened up new channels for addressing the material needs and religious sensibilities of a minority population that

is, for the time being, without significant electoral representation” (2009: 312). But because of the conflicts described above, Mantecón Sancho ironically described it as an agreement born with “original sin” (2001: 112). Chaib has called it “an important step,” but, as we shall soon see, also “a dead letter” (Chaib 2008). The fact of the matter is that the agreement does not actually function in practice. There is much difference in opinion in the diagnosis of the major impediments to its implementation. Some blame the Muslim community, others the Spanish government; most observers acknowledge that blame is to be shared by both parties, albeit perhaps not equally.

It is undeniable that disunity within the CIE is the principle obstacle for the realization of the Agreement of Cooperation with the State. The reality is that CIE remains, *de facto*, a federation of federations (Chaib 2008). There is no president, no singular leader or representative of the CIE. The office of Secretary General is comprised of the two respective presidents of FEERI and UCIDE, plus one representative for each ten associations that adhere to the Agreement, but not to either of the two principle umbrella organizations. Everything is divided in two, practically nothing is pooled (Mantecón Sancho 2001). Worst of all, and what causes the most problems, is that for any decision to be taken on behalf of the CIE, the heads of both FEERI and UCIDE must agree, yet over the years the presidents have not gotten along at all (López García and Planet Contreras 2002: 168-169). Escobar Stemmann describes the CIE as “paralyzed by internal quarrels” (2008: 73); Zapata-Barrero observes “outright hostility” between FEERI and UCIDE (2006: 151). Amérigo claims that the failure to fulfill the agreement is in part the fault of Muslim immigrants who come from countries where such arrangements are simply inconceivable (2007: 69-70). Abumalham recognizes the need for authorized representation of the Muslim community in Spain but also that the very concept of hierarchy is a foreign concept in Islam (2007: 11). Therefore, perfect execution of the agreement should not be expected.

Disagreement among an increasingly diverse group of people and interests, as is the case within the Muslim community in Spain, is understandable, and thus the inability to follow the stipulations of the 1992 Agreement is as well. But the other party, the Spanish State, has little excuse and much responsibility for non-compliance. The Franco regime had run the country in a very centralized manner from the capital, Madrid. The aftermath of his death and the subsequent constitutional debates that ensued led the Spanish government to return to many of the decentralized ideals codified in the Constitution of the Second Republic of 1931. This newly rediscovered tendency in favor of a decentralized, local focus in governance has also been evidenced in the Muslim community of Spain while some centralist tendencies have remained in age of Spanish democracy. One of the many complaints against the CIE and the state itself was that the agreement did not take local concerns into account (López García and Planet Contreras 2002: 172-173). Another problem in the execution of the Agreement was that the Socialist government at the time was too focused on signing the agreement in the symbolic year of 1992, five hundred years after the fall of Granada and the expulsion of Moors, and that once signed, the State treated it as the end of the need for dialogue instead of the beginning of the process of Muslim integration (Zapata-Barrero 2006: 149-150). This was further exacerbated with the arrival of the conservative Aznar Administration in 1996, which immediately cut off all financial support for the Muslim community upon his taking office (Arigita 2006: 36; Chaib 2005: 168-174). The Socialist Party’s return to power in the aftermath of the terrorist attacks of 11 March 2004 provided some hope for greater dialogue, but the Zapatero Administration continued to see the Agreement as marginal, in second place behind a focus on terrorism regarding the Muslim community (Zapata-Barrero 2006: 149-152).

The very idea of a codified agreement with the Muslim Community was an idea of the State, born in good faith, a product of the 1978 Constitution and subsequent legislation. Yet the State did not seem to understand the inherent instability which would become the product of forcing the creation of a singular interlocutor and pushing to sign the agreement in the emblematic year of 1992. Longer term problems have become more obvious over time. Laurance notes poor “religious infrastructure” throughout Europe, as states tend to do little to facilitate the construction of mosques or the training of Imams (2009: 303-304); this is especially true in Spain (Arigita 2006; Zapata-Barrero 2006). How can Islam flourish in Spain, and thus be the best partner with the government it can be if it has little space of its own and little help from the same government in gaining more? Another practical reality and impediment to the execution of the agreement is that the body the CIE is to represent has changed drastically since the agreement entered into force. Most Muslims arrived well after it was signed, and they have come from different cultures and countries that were not well represented in the 1980s and 1990s when Islam was institutionalized in Spain. Therefore, the 1992 Agreement tends to favor Spanish converts and those already integrated (López García and Planet Contreras 2002: 165) and does not meet the needs of most of the more recent immigrants (Chaib 2005: 169). Escobar Stemmann blames the bureaucratic nature of the Agreement for its failure, which ultimately is the fault of the Spanish government at the time of negotiation (2008: 80).

Given that bureaucracy fosters inertia and solidifies power and interests, there is little political will on either side to renegotiate and update the arrangement (Zapata-Barrero 2006: 152). The state obviously ignores the agreement and given the internal rows within the CIE, Muslims today seek the benefits enshrined in it not by depending on the agreement itself but rather by appealing to the principles of democratic liberalism. However, in order to make real progress in the amelioration of the situation of Islam in Spain today, the case has been made that since it is the Spanish state that provides religious liberty and non-discrimination through an official, codified agreement, going beyond the tenets of liberalism, then the state has a right to require that its interlocutor not be dysfunctional, and thus that the Muslim community in Spain is obliged to fix the structure of the CIE (Mantecón Sancho 2001: 121-122).

In order to remedy the present state of affairs, Américo calls for greater state neutrality, adherence to declared objectives, and proactive participation in public debates regarding the use of the veil and the construction of mosques, tolerance on the part of both sides of the agreement, and more state-sponsored socialization projects (2007: 74-75). In light of a lack of an inherent hierarchy within the Muslim community (world-wide and not just in Spain, of course) to act as a wholly representative negotiator and due to greater diversity of the Islamic population in Spain today, owing entirely to immigration since the cooperative agreement was signed in 1992, several voices have stressed the need for a focus on local realities facing Muslims today (López García and Planet Contreras 2002: 172-173). Mantecón Sancho advocates that Spanish Islam should certainly not be structured around a conflict between FEERI and UCIDE and thus suggests that the agreement have a geographical base; the state should not recognize the Muslim community on the whole as it has to date but rather individual mosques. In other words, it should be representatives from a given mosque that sign the agreement and by doing so the mosque joins the CIE (2001: 122-123). That there are proposals as to how to improve cooperation between the State and the Islamic community is promising, but given that there have been problems from the outset and that little has been accomplished to date, nothing more than guarded optimism should be expressed.

Despite the errors in the negotiation and execution of the 1992 Agreement and the last 13 centuries of latent and subtle anti-Muslim sentiment on the part of a substantial swath of Spanish society, concrete progress has been made in the cause of Muslim integration in Spain. Salima Abdessalam, deputy in the autonomous regional government of Melilla, asserts that she is 100% Spanish, advocates against lumping all Muslims in Spain into one monolithic category. Not doing so, she claims, will not only help the rest of Spain better understand Islam, but it will also foster the growth of what she calls Spanish Islam, which is against terrorism and machismo (Barbería 2007: 3). Spain is in need of such a figure as Abdessalam to be more vociferous in the effort to continually soothe tensions over the Spanish-held enclaves of Ceuta and Melilla in North Africa as well as to temper the view of 96% of Spaniards who believe Islam to be inherently sexist (Noya 2007: 2).

Another example of a leader in the Muslim community in Spain is Mohamed Chaib. Chaib was born in Tangier in 1962 and came to Spain at the age of four. Based in Sant Boi de Llobregat (in the outskirts of Barcelona) and a pharmacist by trade, he founded the socio-cultural association *Ibn Batuta*, which helps integrate Moroccan immigrants in the Autonomous Community of Catalonia. He is also a member of the Forum for the Integration of Immigrants and has worked as a consultant for the *Generalitat* (Catalan autonomous parliament) on the topic of immigration. In 1995 he joined the *Partit dels Socialistes de Catalunya* (PSC, or the Socialist Party of Catalonia), and became a member of the *Generalitat* in 2003 (Arigita 2006: 40; Barbería 2007: 2). He has long been aware of the difficulties presented by the need for legitimacy of unified Muslim leadership in the eyes of the Islamic community in Spain, the role that Imams can play both in terms of said legitimacy as well as in the facilitation of integration of Muslim migrants, and the help they can provide in preventing the problems faced by other European countries posed by the mismanagement of the integration of second generation Muslims throughout Spain (Chaib 2005).

However laudable the efforts of Ms. Abdessalam and Mr. Chaib may be, the fact that their efforts are so noteworthy and their struggles so monumental attests to the reality that Spanish society is perhaps not as understanding and accepting of Islam as public opinion surveys demonstrate (Méndez-Lago 2007; Zapata-Barrero 2009). Additionally, as de la Hera notes without specific reference to Islam, the system of institutionalized religion-state relations in Spain is perhaps not as flawless in practice as the Spanish constitution dictates. It is clear that a de facto policy gap between aims and outcomes exists concerning the codified relationship between the central government in Spain and the Islamic community within the country. Amérigo, while critical of the CIE, states matter-of-factly that the actions taken by the Spanish state “do not completely respond to the principles it preaches, at least concerning [the principle of] *laïcité* (2007: 70).¹⁹ Fault for this reality lies with decision-makers of both the political left and right, given that the shortcomings in implementation of the 1992 Agreement with the Islamic community have endured through changes in government and as gaps have clearly been evidenced concerning immigration policy. We will now put these two policy areas together, returning to the theories and hypotheses presented above.

V. Synthesis: Political Science Theory, Gaps & Convergence in Religion & Immigration

Many of the authors cited herein have observed that present-day immigration has brought issues of religion to the fore in Europe, has tested laws and norms meant to preserve religious liberty, and at

¹⁹ “[L]a imputable al Estado español, es que su actuación no responde completamente a los principios que predica, al menos en materia de la laicidad.”

the same time has reenergized Christian identity in the Continent (Klausen 2009; Zapata-Barrero 2006: 155; Amérigo 2007: 69-70).²⁰ In the cases of Spain and Portugal, some assert that the Muslim presence in the Iberian Peninsula, from 711-1492, should facilitate and provide a framework for integration today (Jahanbegloo 2007; Soares Loja 2002: 191-192; Miguel Ángel Moratinos, former Minister of Foreign Affairs of Spain, quoted in Tamayo 2009: 105). Others insist that the shared history between Iberia and the Muslim world is one of animosity (Encarnación 2004: 171-173), that any discussion of Islam in Spain should only be done within the context of contemporary immigration (López García and Planet Contreras 2002: 172), and that the rise of Islam today challenges the idealized idea of medieval *convivencia* (coexistence) among Catholics, Jews, and Muslims in the Peninsula (Abumalham 2007: 10).²¹ Zapata-Barrero is more nuanced, claiming that in the case of Spain, one of two visions of history are available: Islam as an anomaly to Spanish culture or Islam as a part of Spanish cultural tradition and identity; he goes on to suggest that if Spanish society on the whole supported the second vision, which it certainly does not, then Spain could offer an example of integration for the rest of Europe (2006).

What is more certain than these hypotheses is both that despite a unique historical relationship with Islam, Spain and Portugal provide quite different cases than their European neighbors and that relatively little comparative work has been done on Islam in Iberia today. Differences between the Iberian countries on the one hand and the rest of Europe on the other include: a better institutional setting for integration in the Iberian countries, low religious polarization across political parties, and that both countries are homogeneously Catholic (Gould 2009: 58-59). We may add to this list an authoritarian past and the presence of neo-corporatism, which provide the framework through which the state can manage its relationship with religious groups today in a liberal, democratic setting (Laurence 2009: 305-312). While not entirely unique to the Iberia, the duration of the respective corporatist dictatorships in Spain and Portugal was exceptional; both left their mark on society and have indirectly conditioned contemporary debate and policy regarding religious liberty.

This is not to claim that Spain and Portugal are uniquely identical, either, concerning the role of Islam and immigration in European society. There are, of course, differences between the Iberian neighbors. In terms of history, we may distinguish Spain from Portugal in that the former endured many more years of Muslim rule and had no lasting colonial presence in countries with a substantial Islamic population (López García and Planet Contreras 2002: 157). Culturally speaking, Gould claims that Portugal is more Catholic than Spain, that Muslim migrants are comfortable within a religious society, and thus that Muslims should be more at home in Portugal (2009: 59). That being the case, he also notes that the institutional setting in Spain is more favorable to integration (58), which is also observed by Laurence as a key difference between the two countries via Spain's system of Cooperative Agreements (2009: 302). And it is the fact that such agreements have been overlooked by political scientists (Laurence 2009: 301-302) that further adds to the relevance of comparatively studying Spain and Portugal while also serving to justify a greater emphasis on Spain.

Nonetheless, the situations of, first, religious liberty and, then, immigration are strikingly similar in Spain and Portugal and thus the theoretical frameworks, practical hypotheses, and observations of the latter can be applied to the former in both countries. Policy motives regarding religion can be explained through the rubrics of international political economy, embedded liberalism, and institutionalism; and,

²⁰ Klausen also notes that with rising sentiments of religiosity, so too is present an anti-clerical backlash (2009: 290), which I would argue is especially the case in Spain. However, discussion of anti-clericalism is outside the scope of this paper.

²¹ For an excellent piece on *convivencia*, and its eventual unraveling, see Lowney 2005.

in addition, the empirical realities demonstrate convergence and policy gaps. The reemergence of Islam in the Iberian countries, predominantly via immigration, has tested the notions of religious liberty and equality enshrined in the post-authoritarian constitutions of both Iberian countries.

Starting first with the tenets of international political economy as applied to religious liberalization, the comparison of costs and benefits is instructive. According to Freeman, the more concentrated the costs of immigration are, the greater chance there is for social conflict due to the phenomenon. The opposite is of course that the more diffuse the costs of dealing with immigration seem to be, the less likely that tensions will materialize. In the realm of policy concerns pertaining to religious liberty, we can claim that the benefits of religious equality are clearly dispersed while the costs, if any, come exclusively at the expense of the Catholic Church. Through its various constitutions, successive governments in Spain, and thus Spanish society, have evidenced an unstable relationship with the Church due to anti-clerical and irreligious sectors of society. Portugal, while over time has proven to be a more faithful ally of the Vatican, has become increasingly secular in recent decades (Soares Loja 2002: 194). But the Holy See, while still reaffirming relations with the democratic governments of Spain and Portugal and asserting ties between the Church and the Spanish and Portuguese people in recent Concordats, has also recognized the right of all individuals to choose their own religious affiliation via the 1965 Papal encyclical *Dignitatis Humanae*. This may be taken as evidence that the Church acknowledges that the cost of religious liberty comes at its own expense, but liberal, modern society dictates that it be so. Perhaps as rapid modernization in the Iberian countries has minimized the possible costs of immigration to the working classes and thus has minimized the influence of the radical right today, so too has rapid religious liberalization, in the context of democratic transition from authoritative, Catholic regimes, minimized the costs of religious equality perceived by individual adherents to the Catholic Church in both Spain and Portugal. This is to say that society-at-large realizes that the present reality regarding the obligation of the state to ensure religious equality has avoided a slow, obvious, conflict-ridden shift away from the Catholic Church to the benefit of other faiths as a necessary consequence of democratic transition and modernization.

With modernization and democratization in Iberia has come the overwhelming influence of liberalism. Freeman's second political science theory to be applied to immigration studies also provides an exemplary framework to explain greater openness to other religions. As cited above, Freeman notes how liberalism has embedded itself via path dependence and the weight of historical antecedents with regard to immigration in receiving societies (2005: 121). It would be difficult not to see parallels in the evolution of religious liberty in Spain and Portugal through their respective transitions from authoritarianism to democracy and from State Catholicism to religious freedom. Portugal's incorporation of the United Nations Universal Declaration of Human Rights into the 1976 Constitution is an example of how international custom and norms regarding individual rights and freedoms became further embedded globally throughout their acceptance in a society in transition. In terms of historical antecedents in the Spanish case, religious conflict in Spain, which has been only one of many sources of tension in recent centuries, paradoxically served to facilitate religious openness at the time of democratic transition. After the death of Franco, the Spanish government could neither remain tied to the Catholic nor could it opt for the total secularism of *laïcisme*. The 1978 Constitution, while not adopting the same conventions verbatim as that of the Portuguese, did follow the liberalizing precedents set previously by Portugal, Italy, and Germany prior, by establishing a "separation with cooperation" relationship with the Catholic Church, and by extension, subsequently all other faiths present in Spain through a framework of *laïcité* (de la Hera 2007: 75). But what sets Spain and Portugal

apart in the examination of religious liberty laws in the broader European context is that the shift from Catholic monopoly to liberal religious equality occurred with breakneck speed.²² Subsequently, we can also claim that liberal path dependency, stemming from laws pertaining to religious liberty and equality, has influenced how immigration has been addressed by policy-makers and accepted by the public in general in the democratic era.

Liberal norms are rarely effective without institutions to either pressure states into following them or to act in accordance with them; political institutions are “distributors of values” in democratic societies (Zapata-Barreo 2006: 155). Institutional pressure may be internal or external and its effectiveness will depend upon a given state’s openness to or independence from such pressure (Freeman 2005: 122-123). With reference to immigration, democratic Spain and Portugal have been susceptible to international pressure, specifically that of the European Union. At the time of their respective transitions, both countries were heavily influenced by foreign and domestic pressures regarding personal liberties. In both countries, there was a drive to reintegrate with the rest of the world. This allowed international institutions like the United Nations to be influential, an example being the aforementioned Declaration of Human Rights. Domestically, as we have also seen, there was a clear demand for greater individual liberties, denied for decades in the 20th century, which included religious freedom and equality and were symbiotically necessary for international acceptance as democratic states. A very recent example of liberal values reinforced by the domestic, democratic institution of the electoral system in Spain was the Socialist Party’s reelection in the parliamentary elections of 2008 after having legalized gay marriage one year prior despite strong opposition from the Catholic Church (Klausen 2009: 293).

Problems in practice arise when pressures, be they through norms, institutions, or public opinion are met with incomplete policy responses. In the areas of both immigration and religious freedom and equality, paradoxes abound and policy gaps exist, often due to the inability of a given government to meet liberal goals. Concerning immigration, this liberal paradox involves the obligation to afford rights to those who remain “just outside of the confines of the social contract” (members of society but not citizens) and limiting the number of illegal migrants that enter the country while also needing to reconcile the needs of the domestic market and the willingness of public opinion to accept more immigrants (Cornelius, Martin and Hollifield 1994: 8-11). It is through immigration that other such liberal paradoxes are revealed, as is the case regarding religious liberty laws.

Three concrete examples highlighted by the interaction between immigration and liberalism in Europe include: 1) a fear of unemployment on the part of host societies and, at the same time, the creation of NGO’s to protect migrants’ interests and rights; 2) the creation of laws of religious freedom, equality and non-discrimination, yet persistent protests against the construction of mosques and the use of the Islamic veil; 3) governments of states that purport themselves to be secular then accuse terrorists, and thus Islam, of attacking Christendom (Abumalham 2007: 16-17). The problems associated with such paradoxes are exacerbated by societal, economic, and political realities. Host economies attract immigrants but politics and public opinion selects them, ordering migrants hierarchically based on race, religion, language, colonial ties, etc. (Zapata-Barrero 2006: 154; Corkill 2001). Politicians know

22 Concerning the salience of religion in contemporary Europe, Klausen presents a working hypothesis claiming that “[s]ecularism spread not as a result of a constitutional break with Europe’s tradition of Church-state merger, but through a social revolution accompanied by a gradual shift in the boundaries between the sacred and the public. The triumph of secularism and liberalism over clerical control over people’s daily lives is recent and was tenuously established through piecemeal reforms of the laws regulating sexuality and consumption” (2009: 292). In the case of the Iberian countries, change was far from piecemeal and was in fact brought about by political revolution, of sorts, and solidified in new, democratic, and liberal constitutional frameworks.

that immigration is needed, especially in certain sectors of the economy, yet when politicians talk of immigration, it is most often in a negative, alarmist, fashion (Zapata-Barrero 2006: 153-154). In terms of non-discrimination and integration, regarding the general public's opposition to the presence of mosques and the use of veil in Spain, the response of the government in the protection of the rights of the Muslim community has been slow and tepid at best (Escobar Stemmann 2008: 80-81; Amérgo 2007: 74).

The question then becomes: why do Europeans think they are so secular when they are not? (Klausen 2009: 290). The simplest explanation for such inconsistencies is that Europeans do not realize the continued extent of their own visible religiosity. In the contemporary European context, religion has come to be seen as a personal choice; and, at the same time, a greater societal presence of religiosity, especially via immigration, has led to greater secularization (Klausen 2009: 295-296). An additional complexity in the equation is that while religious majorities increasingly see themselves as secular (to some degree), this has happened without a full-bore abandonment of the cultural aspects of Christianity (Abumalham 2007: 12-13). Religious majorities see their faith as an ethic and as the societal norm, while minorities are forced to see theirs as an identity, thus minorities are made to adjust, to choose between their faith and the state (Klausen 2009: 296-297). Returning to the case of Spain, centuries of Muslim cultural heritage is completely ignored throughout most of society, one which, on the whole, continues to see itself as "culturally Catholic" (Zapata-Barrero 2006). But what many Spaniards do not realize is that while Muslims appear to be visibly religious in everyday life, so are Catholics. And in their modern, non-confessional society, Spaniards do not acknowledge that in reality religion belongs more to the realm of custom and habit than to the conscious realm of belief (Zapata-Barrero 2006: 153). Pessimistically, claims Zapata-Barrero, Spanish identity, which among European countries has the most historical ties to the Muslim world, is also a flagrant example of the fact that European identity has been built in opposition to Islam (2006: 155). Yet despite these impediments, religious freedom must be allowed, and equality among religions ensured, for both members of the autochthonous society as well as the immigrant communities, but, while laws protecting such religious rights have converged over time, gaps in outcome are also apparent.

Convergence in the realm of religious freedom and equality is undoubtedly shaped by the same forces that Freeman identifies as fundamental to the understanding of contemporary immigration realities. Liberalism and institutionalism explain how states have been left with little option but to be open to such influences and to converge on immigration policies across borders (Cornelius and Tsuda 2004: 16). Such forces also brought about religious liberty throughout Europe (Klausen 2009) and explain Laurence's observation that integration policies concerning Muslim communities across the Continent are "broadly analogous" (2009: 302). Parallel development patterns and regional integration, especially in Europe and perhaps more so in the case of the Iberian countries, also mentioned by Cornelius and Tsuda to explain convergence (2004: 17-18), demonstrate how and why Freeman's analytical framework of costs and benefits have been concentrated or dispersed concerning both migration policy as well as religious liberty and equality. However, while Cornelius and Tsuda correctly assert that there are no "deviant cases" in the immigration policy sphere (2004: 15), such uniformity is not so neatly evidenced with regard to state-religious institution relations in Europe. Exceptions to complete religious equality, which is meant by the existence of some favoritism on the part of the state for one religion at the expense of others, but without denying religious liberty and freedom of consciousness, include the United Kingdom, Austria, Italy, and most of the Scandinavian countries

(de la Hera 2007: 73-74; Klausen 2009: 291). That being said, what makes the examination of Spain and Portugal so interesting and instructive is that while both countries have followed similar patterns as, and faced pressures from, the rest of Europe concerning immigration, laws of religious freedom were enacted just before migration transition became a reality. Both countries have converged on unique paths of development, similar but not identical to each other, concerning both religious freedom at the time of democratic transition and then immigration, as their respective democracies consolidated.

Taken as a negative, as demonstrated in the fourth section of this paper, Spain and Portugal have also evidenced policy shortcomings in the area of religious equality, just as they have in immigration. Ultimately, in the area of immigration policy, Cornelius and Tsuda attribute such gaps between policy prescriptions and outcomes to the ambiguity of government aims and the imperfection of the policies themselves. Similarly, Klausen observes that religious freedom goals are not met due to ambiguous policies in Europe producing unintended consequences. Unintended consequences are not only a logical result, but should by now be expected by policy makers when it comes to immigration and the examination of the Iberian experiences shows clear similarities concerning attempts to legislate religious equality. A clear gap in outcomes exists between religious freedom and integration in Spain regarding Islam (Amérigo 2007: 51). Additionally, in many European countries the state continues to subsidize the Church (Escobar Stemmann 2008: 81; Klausen 2009: 290). And while Cooperative Agreements in Spain are generally accepted as positive, why do Muslims seem to be more widely accepted in Portugal, where no such formal arrangements exist? (Gould 2009: 59). Nonetheless, Soares Loja assures us that Portugal's 2001 Law on Religious Freedom "will go a long way to establish religious equality and to consolidate the principle of the separation of religion and state. Nevertheless, some inequalities and some overlap between religion and state will remain" (2002: 202). And despite the praise for Spain's system of institutionalized religion-state relations, many authors admit that it is imperfect and must be improved upon (de la Hera 2007: 79-80; Mantecón Sancho 2001; Amérigo 2007). Serving as practical examples, the Socialist Party's rush to sign an agreement with the Muslim community in 1992, the conservative Popular Party's subsequent abandonment of it (1996-2004), and the current PSOE's focus on terrorism as opposed to integration are indicative of the elite leadership's ambiguity of goals in Spain, both in terms of religious equality and immigration.

This is not to claim that policy making concerning religion is or has been illiberal; quite the contrary. Cornelius and Tsuda, for all of the policy flaws they see, never make such a claim regarding immigration. However, this is the point on which Cornelius and Tsuda cleanly align with Freeman, who argues that liberalism is necessary to understand immigration today. Specifically dealing with religion in liberal societies, de la Hera and Amérigo affirm that a secular state should be the only option for a democratic society, however, we have seen that a confessional state is not inherently non-democratic, as proven by the United Kingdom; perhaps we could even call this a *positive* liberal paradox. In the respective cases of Spain and Portugal, I do not mean to assert that policies and agreements that have continued to subtly and tacitly favor the Catholic Church are inherently discriminatory or are specifically anti-any-other-religion. However, ideally in a liberal, democratic society, state neutrality and impartiality, as well as tolerance on the part of citizenry are required (Amérigo 2007: 59-64). So while Spain and Portugal offered exemplary transitions from authoritarianism to democracy, realities which have fostered a certain political and societal openness in terms of policy and public opinion, the impartiality of their liberal institutions is being tested. Zapata-Barrero observes that:

“In the Spanish context, we would say that although before the (later-day) arrival of Muslims to Spain there was a certain congruence between personal points of view and impersonal points of view in the democratic form justifying our structures, principles and values, now that the Muslim presence has been publically recognized, this original impartially becomes partial, as it favors the positions of citizens over the Muslim community with arguments that have much more to do with emotion and history than rationality and common sense” (2006: 157).

In other words, liberalism, as a normative idea, can of course be impersonal and impartial. But because of history and tradition, political institutions certainly are not, regardless of the liberal ideals that pressure and drive them today; liberalism might determine policy but institutions have the responsibility to produce policy outcomes.

The present claim is nothing more than that to understand the policy gaps concerning religion in the Iberian countries, given that they have come to the fore almost entirely due to contemporary immigration and that the laws themselves are relatively recent (by the standards of western, liberal democracies), applying the theories presented by Freeman and the hypotheses offered by Cornelius and Tsuda is instructive. It is through the restraints and pressures imposed by liberalism and both domestic and international institutions that ambivalence toward immigration in labor-importing countries is engendered (Cornelius and Tsuda 2004: 40-41) and right-wing backlashes have been tempered in Spain and Portugal (Costa Pinto 1995; Ellwood 1995). It is my contention that tepid tolerance of increasing religious diversity on the part of public opinion and policy gaps concerning religion are the products of the same forces. Thus Freeman’s assertion that a “comprehensive explanation” of immigration will combine consideration of political economy, rights, and institutions (2005: 124) becomes all the more relevant as it is applicable in the area of religious freedom, especially in these new countries of immigration. Due to myriad parallels in policy making, it would seem difficult to completely understand the complexities of immigration in Spain and Portugal without grasping the process of religious openness, and vice-versa, both of which were brought about by democratization.

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