

# DEMOCRACY, ECONOMY, PROGRESS AND THE RULE OF LAW. SPECIAL REFERENCE TO THE TAX REGIME FOR RELIGIOUS DENOMINATIONS

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## Abstract

**The purpose of this article** is twofold: on the one hand, to relate the fiscal and financial model to the Social and Democratic Rule of Law, on the other one, to transfer Spanish experiences that may be of interest to Poland, as both countries began their democratic experience and integration into the European Union a few decades ago. From a multidisciplinary perspective, the contributions that law could make to the field of political economy can be of capital importance for the consolidation of our democratic systems, public order, and social peace, analyzing the role of religious confessions. **Methodology.** To achieve this purpose, the analytical-comparative-interdisciplinary method was chosen as it was considered the most appropriate one in view of the close connections between economics, law, progress and social peace. **The result of the research.** The work shows that democracies, although they are the most effective models for achieving the highest standards of progress, and even though in the Polish and Spanish cases, they have the advantage of having served to bring dictatorial periods to an end, there is a need for effective control mechanisms. Democracies absolutely cannot degenerate into corrupt and ineffective systems under the control of large political and partisan oligarchies. The independence of the judiciary is, in this sense, an essential and inalienable element in guaranteeing the correct functioning of other state institutions. It is necessary to insist on the importance of the legal norm as an instrument of political control and its impact on macroeconomics, and the consolidation of democratic regimes, even more in the context initiated with the respective integration processes in the European Union. On the other hand, the aim is to show how beneficial tax treatment for religious denominations has a powerful effect on the achievement of the common good and social peace. In addition, it is about relating importance that has the budgetary balance and mechanisms for controlling public expenditure for the maintenance of progress and social justice in a sustainable model.

**Keywords:** democratic state, social state, the rule of law, financing and taxation.

**JEL Class:** K30; K34.

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## INTRODUCTION

Democracy and the rule of law are not, *strictu sensu*, equivalent terms; in the process of progressive acceleration undergone by the History of Humanity – whose speed is increasingly vertiginous – everything points to the establishment of a cause-effect relationship between the rule of law, democracy and development.

A global overview confirms the theory that the countries with the best democratic standards are those that offer the highest levels of quality of life, legal security, political and social stability, as well as the best levels of social coverage and progress. In fact, out of ten countries with the highest quality of life in the world, seven are the European ones (Denmark, Sweden, Norway, Switzerland, the Netherlands, Finland, and Germany), one is also Western (Canada) and the other two (Australia and New Zealand) have a markedly Anglo-Saxon culture. The reason is to be found not in their GDP, their size, their natural resources, their population, or other macro factors, but in the proper functioning of their institutions.

The law, which is – without a doubt – the most effective instrument that exists to transform reality – especially when it offers stability to the system – is, unfortunately, used by the political classes in the most immature democracies as an ideological and partisan tool, thus losing the *raison d'être* it has had throughout history to create culture, civilization and system.

But some Western democracies have major drawbacks, one of which is the excessive ideologization of power, which is transferred to the economy, politics, law, the model of society that is sought...; another is the short duration of terms of office (Catalá, 2013: 75) and the improvisation (Garrigues, 2013: 25). These factors, together with the alternation of the governing political party, mean that, in immature democracies, what one government plans, the other undoes, and the population suffers the vicissitudes of erratic and ineffective policies. In the case of Spain, for example, it is common to observe a very limited capacity for consensus on major state issues, which leads to a certain instability in its institutions, inefficiency, waste of public resources, etc.

It is therefore worth asking whether the success of a nation, of a civilization, of a continental structure such as the European Union, etc., depends so much on the democratic regime – understood as a set of rules for access to power, be it national, regional, provincial or local – or, on the contrary, more on the degree of maturity of the political class and, in particular, on the legal system created and agreed upon. In other words, democracy may only be a question of procedure, i.e. a mechanism for access to power, but this in no way implies a guarantee that we are dealing with a true rule of law, i.e. a democratic regime is compatible with a failed state. The Ibero-American republics, in fact, are submerged in a loop of

institutional instability, underdevelopment and poverty; they do not offer a real system of guarantees, they do not have the capacity to attract foreign investment, nor to prevent capital flight, nor do they guarantee minimum security standards. They are a long way from achieving an acceptable model of social welfare, and yet they are formally democratic regimes.

When the common characteristics of Western Constitutionalism are analyzed and compared with those of Islamic, African, Asian or Latin American Constitutionalism, it becomes clear that their Magna Carta, in addition to representing the summit of their normative systems, are, pillars on which the gigantic legal and institutional structure of the State is based. Thanks to the firmness and effectiveness of these texts, due to their unquestionable relevance, the former are a true seed of a model of advanced society.

What follows is that politics can become the enemy of the law and that the pretensions of ideological groups can serve to improve the normative model, but also to instrumentalize it, manipulate it or deprive it of effectiveness.

These reflections from Spain are addressed to a great country such as Poland, aware that both nations are united by territories of similar size, a shared Catholic tradition, a youthful democratic experience, and the novelty of full membership of Community structures, hence the interest that this work may offer.

The European Union is the biggest and best international project that history has ever known; it will not be easy for there to be another one of greater scope, interest, and effectiveness in the future. It is undoubtedly destined to be a strong counterweight to great powers such as the USA, Russia, and China. Unlike these, the conception of the “social state” model – conceived and nurtured in a powerful and decisive way by European institutions – represents the highest standard of quality of life achieved to date, a model that guarantees high levels of progress. What is more, in the face of Spain’s political instability, the excessive parliamentary weight of communism, separatism, etc., and in the face of ideological currents of ideology, the “social model” is a model that guarantees high levels of progress. Facing ideological currents that mask models of society which seek to combat the family (the capital cell for the formation of a solid social structure) or the risks of institutional, economic and social destabilization from foreign powers, the EU has been, is and will be an area of security and stability. However, there are many problems it has to face and many aspects that may clash with certain interests of the member nations and their governments of the day.

Certainly, the EU membership has entailed a partial loss of national sovereignty, a classic concept that is constantly under review and which, albeit it may partially affect the idiosyncrasies of each people or nation, offers numerous advantages for the societies particularly prone to excessive manipulation, ideologization or drift. This is the case with the Spanish nation that is made up of numerous peoples and cultures which are diametrically opposed to each other.

Coping with internal problems our country is going through, it is in the heart of the Union that the best possible scenario for future stability can be found.

This paper will analyze some aspects related to economic and social progress that have to do with two friendly nations, Poland, and Spain, within the Union. Another objective is to provide a reflection for a better functioning of its institutions and also to avoid certain dangers coming from foreign interests, intrusive ideologies, or destabilizing agents.

## **1. FINANCING, TAXATION, STATE MODEL AND DEMOCRACY**

The proliferation and exponential growth of large multinationals operating potentially all over the world is putting the tax system in check, placing national companies in a situation of clear inferiority with all that this entails.

The social state is only viable through effective revenue collection mechanisms, but growth is directly dependent on tax levels. Two great economic truths come together in the same direction: on the one hand, low tax rates generate more revenue in the medium and long term, boosting internal growth and foreign investment; on the other hand, it is a form of competition that can be unfair in communities of nations, such as the EU.

In this aspect, as in so many others, each country enjoys a certain margin of fiscal and financial autonomy that coexists, at the same time, with the EU rules that restrict these tax and budgetary freedoms<sup>1</sup>. The questions that could be asked are: should Europe continue to monitor and control the revenue-raising capacity of the Member States, and to what extent, and for how long?

Certainly, the search for a balanced budget is a desirable objective; economies – both national and particular (of individuals or companies) – cannot settle in infinite and progressive indebtedness. The Community project is integrating and definitive, it needs minimum conditions of economic “health” that guarantee its viability and the greatest possible specific weight in the Community of Nations. This economic health depends directly on the health of each Member State in relation to its indebtedness, GDP and continental GDP<sup>2</sup>.

The question that should be asked is whether the controls carried out by Europe are adequate, whether there should be fewer or, on the contrary, whether they should be reoriented, more demanding, and so on.

In Spain, a country with a very strong pro-European sentiment, some miss greater EU interventionism because we suffer from a large budgetary imbalance (Sáez, 2000: 271–278). The policies pursued in the Nordic and Central European countries are, in general, much more serious, mature and effective than those

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<sup>1</sup> On this issue see articles 3.3 TUE: 110–113; 126; 174–178 TFUE.

<sup>2</sup> Idem, Protocol on economic and social cohesion; arts. 71 and 177 TFUE.

pursued within our borders. One example that shows how public money is wasted in a completely sterile way, should be presented here.

Every country has a public television that aims to always guarantee access to information and in all circumstances. How biased it is, whether it is used politically or ideologically, how much revenue it raises, the net cost, etc., are questions that could – and should – be discussed, but this is not the right place to deal with these issues. What is important here is that in Spain, thanks to the financial autonomy enjoyed by the Autonomous Communities<sup>3</sup>, there are almost as many autonomous television stations as there are regions in Spain. Except for Cantabria and La Rioja, the rest (16 in total) have public broadcasters, but many of these regions have several channels: Andalusia 4, Aragon 2, Balearic Islands 2, Catalonia 5, Galicia 2, Madrid 2, the Basque Autonomous Community 4. These public broadcasters, together with the regional television channels, which only have one channel (Asturias, Canary Islands, Castile-La Mancha, Extremadura, Murcia, Valencia and Ceuta), make a total of 28 regional broadcasters. The municipalities, public radio channels, etc. must be also added here.

It is unquestionable that the service offered by the public television channels is close to zero, serving almost exclusively as “placement agencies” for people who support the party that governs the region. Additionally, also in a preponderant way, these are instruments of political propaganda of the party that governs the Community, strengthening the Iron Law (Robert Michels -1911-) according to which political power tends to consolidate and institutionalize itself.

These mechanisms of intervention in public opinion, favoring the political group that governs the corresponding region, because of the principle of financial and budgetary autonomy, cost the coffers of the public sector more than 1,100 million euros per year, generating budget deficits that the Autonomous Communities themselves must cover.

The very territorial configuration of the Spanish State, with 17 Autonomous Communities, six of them unprovincial (Madrid, La Rioja, Navarra, Murcia, Asturias and Cantabria) and two Autonomous Cities (Ceuta and Melilla), all with their own autonomous parliaments, governments, High Courts of Justice, their own public administrations..., is a colossal nonsense in organizational, political, legal, economic and budgetary terms, so much so that a very high percentage of the Spanish public deficit is caused by the Autonomous Communities. It is true that they have served to structure the territory, to guarantee public services to practically the entire population and to combat certain inequalities that once existed between what is called “rich Spain” and “poor Spain”, but it is also true that the model requires permanent audits, readjustments..., which nobody wants to do.

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<sup>3</sup> Art. 156 CE.

The legislative capacity of the Autonomous Regions, their excessive spending, their superfluousness on numerous occasions and, above all, their absurd proliferation, such that it could be considered the Fourth Taifal Period (Catalá, 2013: 74), are excesses that will never be tackled from within. We can only hope that the European institutions will gradually restrict so much nonsense, forcing our country to adopt measures to rationalize the management of public services and to control the excessive spending that they give rise to, since it is not covered for policies to defend regional diversity (Cuadrado and Parellada, 2002: 349–350).

One of them would be, for example, to make the existence of regional and local radio and television broadcasting bodies conditional on their having a surplus, i.e., on their not being a cost to the public coffers, or on the autonomous community, town or city council having a surplus and using part of it to pay for its own media. This would almost certainly lead to the disappearance of all of them.

It is obvious that this type of solution will not come from the home soil, so only a solution imposed in the European context is possible. The EU must be more demanding with certain States and their accounts, controlling budgets in terms of superfluous, unnecessary, ideological spending, or spending that serves to promote clientelism and/or turn political parties into employment agencies, maintain the system, etc., making Community funds conditional on certain rules – increasingly strict – in relation to public spending, otherwise, its budgetary balance will not be achieved (Antuñano and Fuentes, 2015: 85–114; Tamames and Rueda, 2008: 759–765).

The same could be said of trade unions and employers' organizations: they should not receive public subsidies, otherwise they would be granting a charter to groups that end up as instruments in the hands of political power (Catalá, 2013: 74). Institutional mechanisms of this kind, financed with public money, make the Iron Law of the oligarchies more effective, to the clear detriment of the general interest and, of course, against true democratic principles.

The endemic problems of an EU member state should be tackled from within, but we must ask ourselves whether, if they are not solved of their own accord, the EU should not intervene to demand higher democratic standards and better integration into the EU's financial and budgetary design. Article 126 of the Treaty on the Functioning of the European Union seeks to avoid excessive indebtedness but does not allow intervention in expenditure chapters.

A problem that affects Poland and Spain, among other countries, is the desire for control of the judiciary. Western parliamentarism, at least in the case of Spain, is in trouble in that it is not the legislative chambers that control the executive power, but the other way around: the political leader who governs the state rules his party and the deputies and senators do what they are ordered to do. The people's representatives neither represent the people nor defend their interests,

which are the general interests; they are much more attentive to their political future, obedient to their superiors, and the only thing the government needs to do is to achieve the maximum possible control by controlling the judiciary.

In the Spanish case, the issue is unavoidably serious. There have been several mechanisms to control the judiciary: on the one hand, the appointment of the State Attorney General, a person trusted by the President who will accuse, investigate..., or not, depending on party interests. On the other, the control of the General Council of the Judiciary and the two highest courts of the State: the Supreme Court and the Constitutional Court. Whenever the members of the latter or the members of the General Council of the Judiciary must be appointed, the two major parties in Spain are in real conflict, and only a distribution of quotas can make a possible agreement viable, but this in no way detracts from the idea of control exercised by the former in the main judicial bodies. Access to the judiciary by the third and fourth rounds is another mechanism for the politicization of the judiciary. Over time, a national party can have a strong hold on the third branch of government.

The fourth power is also very easily controlled. Not only through public television and radio stations, whether state, regional or local, but also through subsidies to the private media, the contracting of advertising, the granting of broadcasting licenses, etc., which depend on the decisions taken by the public authorities. All these measures produce a perverse effect in relation to the minimum standards of democratic quality. It is not that Spain lacks people of great political and moral stature; it is that it is impossible for them to enter politics because they have no place in the structures of either the parties or the State itself. It is enough to look at the general failure of all political leaders in the opinion polls and demoscopic evaluations that are carried out from time to time, with no active politician obtaining more than a 5.

This section can be concluded with two very clear conclusions: the Spanish case cannot be described, strictly speaking, as a “Democracy” since it is a full-fledged “Partitocracy” (Catalá, 2013: 73). The second is as serious as the first one: the Budget Laws and the mechanisms for financing political parties, trade unions, the media, associations, NGOs, etc., conceal a perverse mechanism of political ideologization, clientelism and waste incompatible with the minimum standards of an advanced democracy.

My opinion still is that the vices of the Spanish political/legal/economic/financial system cannot be tackled if it is not from the EU. Hence, the importance of controlling the State budgets (and those of the Autonomous Communities) preventing public waste because, in addition to all that has been said, official cars must be added, advisors, bodyguards, duplication and overlapping of functions and tasks, hypertrophy of public administrations and their inefficiency, lack of

effective control mechanisms and lack of political, legal and economic accountability of public servants.

The classic concept of “national sovereignty”, which is clearly outdated and which has served, in its negative side, to feed all the vices of the State, must give way to the need to build a cohesive common space in which there are – in addition to the existing ones – three stable areas of common European action: educational (at all levels), budgetary (which implies fiscal and financial) and, finally, what refers to minimum democratic standards and implies a proper separation of powers and, therefore, an autonomous judiciary and a State Attorney General elected from among the public prosecutors (i.e. what is appropriate in a true democracy).

The European Higher Education Area, with all its shortcomings, has served to further the idea of the “common home”, but it has lacked the most important, the most basic thing: to do the same with the two previous stages of education, primary and secondary. In these, the parties constantly project their ideology to shape consciences more or less in line with their partisan approaches. It is necessary to intervene in the unrepresentable, ephemeral, and tendentious Spanish educational model, and this will only be possible – in the absence of a State Pact that will never come about in this area – from the Community bodies: imposing minimum standards of quality and operation, subject to supervision and control. This competence, that of education, transferred to the Autonomous Communities, has given rise to one of the great “cancers” of the Spanish system, subjected to constant harassment from the undue ideologization of the majority political formations, regionalists, separatists, etc. (Catalá, 2013: 75).

The Spanish case is a magnificent “test bed” of democratic shortcomings. Another example that highlights the perversity of our political system can be also presented.

In my country there is talk of “rich Spain” and “poor Spain”. Curiously, after more than forty years of “democratic” experience, the poor provinces, counties, and regions are increasingly depopulated, with poorer communications and lower per capita income. In contrast, the rich regions are becoming more so in proportion and weight. The reason for this lies in the democratic game which, as was pointed out, is perverse.

What politicians do is to finance the regions according to their population (among other criteria), which generates less funding for the less populated regions. However, as the less populated regions have less political weight, i.e. they elect fewer members of parliament, they receive fewer budgets because at both state and regional level, the different governments make wealth-generating investments in the richest regions and provinces. This means that, through the funding mechanism and the freedom that each autonomous region has to determine its own public spending, the perverse effect of the progressive impoverishment of the



poorest areas is produced, given that they have less political clout. Each legislature is, in this sense, worse than the previous one for the depressed areas.

The European Regional Development Fund could not achieve its goals as long as there exists so much impact of political ideology on the economy<sup>4</sup>.

This perversion is magnified by other mechanisms. One of them is, for example, the capture of ERDF funds and other items intended precisely to combat depopulation, isolation, lack of infrastructures and services, lack of opportunities, etc. . These funds are captured and managed by the Autonomous Communities, which oversee distributing them according to their own criteria: to continue improving the richer provinces to the detriment of the poorer ones. In this way, a double objective is achieved: on the one hand, the vote of those who benefit from these aid and investment packages (which are the most numerous populations) is guaranteed, on the other hand, the poverty of the poorest and most depopulated areas is maintained and increased, which provides standards of destitution that justify more money from the State and the European Union, to continue doing the same thing year after year, legislature after legislature. In this way, it is not complied with the Community policy of economic, social and territorial cohesion (Fernandez, in: Linde, 2006: 656–673; Buitrago, 2013: 335–381).

Recently, mechanisms are being adopted, precisely from the EU, which are intended to target the most depopulated areas; this is very plausible, but if the money is administered by the Autonomous Communities, the problem will persist. These funds should go directly to the comarcas, not even to the provinces. The reason is the following: the provinces are political bodies of indirect representation, governed in practically all the territory by the PP or the PSOE, which are the big national parties. To give them more economic power is to give them more political power, that is, to put more resources in the hands of those who are responsible for the country's structural ills. The equality of all Spaniards is, of course, broken. The principle of economic and social cohesion is thus broken because local development is not taken into account (Tamames and Rueda, 2008: 660–661).

For reasons of material justice, for reasons of immediacy and efficiency, the regions should be the ones to receive national and Community resources to address their development; the ones that have a direct link with the European Institutions, the ones that can put forward their needs. If this were done and done well, Europe could be a much more dignified, balanced, and fairer area, and more effective responses could be given to problems such as ageing populations, immigration, social cohesion and development.

Another problem in which my country is recreating itself is that of the Spain of inequalities. Certain statutes of autonomy, such as the Basque one, generate

<sup>4</sup> About this subject, Punzón (2009: 82–90); Sáez (1999: 279–285).

a privileged financial and tax framework for the citizens and for the prevailing regional party (Catalá, 2013: 73–74). The latter sells its votes in the national parliament—especially in situations of simple majorities, which are becoming more and more frequent – in exchange for financial and tax privileges. In doing so, it gains more power, more popular support and greater gross and net wealth. The circle is vicious, progressively generating a “Spain of Inequality” with very different speeds and legislative, budgetary, and fiscal frameworks that have nothing to do with the fundamental right to equality of all Spaniards proclaimed in the Constitution<sup>5</sup>.

The same is true of the tax burden and salaries. Regarding the former, there are very different tax burdens in different regions. The most obvious example is an inheritance tax, which is extremely heavy in some regions and almost non-existent in others<sup>6</sup>. As for the second, we can see that a specialist doctor working in the public health service can receive much higher salaries if he/she works in regions such as Navarre than when he /she works in others such as Madrid. It happens despite the fact that the category, level, duties, responsibility, etc., are the same, simply because the regions have budgetary freedom and can reward their civil servants with bonuses that other regions do not establish. If this were the case without generating a public budget deficit, it would be an injustice in every sense of the word, as it violates the most elementary rights and principles of the Constitution; but if it also generates a budget deficit, then the result could not be more perverse. Once again, the Iron Law: things are done to guarantee the vote of the citizens who benefit from it.

Spain’s anomalies in these fundamental aspects affecting its budgetary and taxation model can only be tackled from outside, i.e., by the European Union, which must create a framework that is incompatible with the perverse system that currently exists in Spain.

## 2. TAX AND FINANCIAL REGIME OF THE CATHOLIC CHURCH AND OTHER CONFESSIONS

This paper is finished by making some references to the legal and financial regime enjoyed by the Catholic Church in Spain, on the one hand, and the other churches and creeds recognized as such by the State, on the other (González Del Valle and Ibán, 2002; Motilla, 2008: 14–49).

The Catholic Church is financed mainly through three different mechanisms (apart from its own resources). These are the following:

1. direct financing – the Catholic Church receives a percentage of personal income tax from the State on a voluntary basis. It works in such a way that

<sup>5</sup> On this matter see Rodríguez (1995: 223–363).

<sup>6</sup> E. g. inheritance tax.

taxpayers who wish to do so, by indicating it on the self-declaration form, contribute to the support of the Spanish Catholic Church with a percentage of their tax, which currently amounts to 0.7% of the total.

It is the only church that enjoys this privilege, which gives it an annual income of around 300 million euros, thanks to the support of almost 7.2 million taxpayers (approximately one third of the population). Its origin comes from the major confiscations of real estate that the Catholic Church suffered, especially in the 19th century, as well as from the State's monopoly on tax collection (remember that the Church could collect tithes, first fruits and other taxes directly from the faithful). Having mentioned that, there is no reason not to establish this mechanism to help other religious denominations that have signed agreements with the state;

2. indirect financing, through tax exemptions from different taxes such as Real Estate Tax (local), Property Transfer Tax (regional), Tax on Economic Activities (state), Gift and Inheritance Tax (regional), the Tax on Works (municipal), etc. This regime applies, in general, to other religious denominations and non-profit organizations if they do not engage in business, professional, commercial, or otherwise remunerated activities;

3. tax relief for individuals and companies making contributions to religious groups. Like the second method, the third one affects all Churches and denominations recognized as such by the State through their registration in the Register of Religious Entities. This tax incentive promotes aid to all types of entities, including NGOs, which represents a very interesting – and important – contribution to the maintenance of social services, the integration of the most disadvantaged people and groups, which contributes, in short, in a very effective way to the achievement of public order and social peace (Rojo, 2019: 207–237).

The fiscal and financial regime enjoyed by the Catholic Church and, in general, by other religious entities and non-profit associations in particular, is a powerful mechanism that has an extraordinary impact on the welfare of the most disadvantaged people living in Spain (Rodríguez, 2012: 183–219)<sup>7</sup>.

The network of Diocesan Caritas and parish Caritas is extremely important in Spain, but Protestant institutions are increasingly present, for example those dedicated to the care of the elderly, the reintegration of drug addicts and alcoholics, etc. This dense network of institutions makes an essential contribution to achieving the aims pursued by the social state and, in this sense, it can be affirmed that the Spanish model of church-state and state-religious confession relations is one of the best on the planet and one of the most fruitful in the search for the common good. Immigrants, ex-prisoners, prostitutes, the poor, the separated, the homeless, drug addicts, the long-term unemployed, who are often

<sup>7</sup> On this subject see Motilla and Catalá (2012: 201–225).

excluded from state aid – since the state lacks the huge network of centers through which religious denominations operate – benefit daily from the aid they receive from denominational and non-denominational bodies. Moreover, the former is subject to stricter rules of control of public spending, with much more bureaucratized structures, so that the needy find in the Catholic Church and in other ecclesiastical entities, NGOs, etc., much more effective areas of protection than those offered by public institutions.

Therefore, even though the first two parts of this contribution have been dominated by a critical spirit, it must be admitted that the quality standards of the social system, of the so-called welfare state since the 1978 Constitution, have reached very high levels.

However, apart from the direct and indirect funding mechanisms that religious entities can enjoy, two of their most genuine dimensions are no less important. One of these is e.g., their participation in the provision of public services. The Catholic Church offers a network of schools and institutes of education at all pre-university levels, which, by means of agreements with the corresponding Autonomous Communities, under very favorable economic conditions for the public administration, contribute directly and positively to the education of the new generations. The same is true of the Church's universities, even if, since they are not compulsory education, they are paid for with their own resources, and in other broader areas such as health care, care for the elderly, etc.

The Spanish case is, moreover, very special, as it has a historical and artistic heritage of such magnitude that it ranks between second and third in the world. An important part of this heritage is, precisely, in the hands of the Catholic Church, which, by preserving it and making it available to society, contributes enormously to the overall development of the nation, generating resources for the State and the private sector (hotels, gastronomy, travel agencies, commerce).

But it is not only its immovable and movable heritage (books, libraries, carvings, altarpieces, gold and silver work, etc.), which are counted in enormous quantities, but also the important artistic and cultural activities that take place throughout the territory (examples of this are the Camino de Santiago and the Rocío) or the fabulous event of Holy Week. Its importance, its beauty, its depth, is of such magnitude that every year it attracts millions of foreign tourists who come to visit us, thus contributing to increasing the wealth and income of the most diverse economic sectors.

It is not easy to calculate the very important savings for the State of the thousands and thousands of teaching places in Catholic schools and colleges throughout the peninsula and the islands, whose desks would be much more expensive if they were in public centers, in turn installed in their own buildings, which are costly to maintain. It is more difficult to calculate the wealth and income that certain religious phenomena and festivals generate, as well as the good that in

absolute terms is provided to society by the network of asylums, nurseries, psychiatric hospitals, care, and help centers for the needy... which both the Catholic Church and other religious organizations provide<sup>8</sup>. Both the Catholic Church and other confessional – and non-confessional – entities provide a lot to society, but it can be affirmed that the Church gives much more than it receives. In other words, the contributions that the State makes to the Catholic Church – and what it stops receiving from it and from other confessional and non-confessional organizations, but which are non-profit-making and clearly socially oriented – is infinitely less than the return it obtains for the services they provide to the general interest (in this same line, the work of Rodrigues Araújo, 2012: 221–226).

## CONCLUSIONS

Democracy as a system of government is perhaps the model that has borne the greatest and best fruits to countries throughout history; however, like all human endeavors, it needs to be nurtured, monitored, improved and audited. Political parties play a leading role in it, and it is precisely the excessive weight they have in public affairs, the use and abuse of power, as well as the management of the extraordinarily high public budgets, that are the aspects most important for the jurist to bear in mind.

In the design of democratic models, the balance of the three branches of government plays an important role, on the one hand, and on the other, the social model and, in the latter, the financing model, insofar as it compromises the welfare state, but also growth, the purchasing power of citizens and full employment.

All authors agree to establish budgetary balancing mechanisms (Viñas et al., 2016: 196–200; Banco De España, 2005: 218–227), tax harmonization (Galindo and Fernández, 2006: 97–115), control public spending (García in: Velarde, 2011: 223–241), as well as fiscal (Antón and Díaz-Giménez in: Bentolila, et al., 2010: 501–512) and budgetary balance, taking into account that the budgetary imbalance affects the euro area (García and Ruesga, 2014: 322–323).

The sustainability of the Spanish system affects the Community system, i.e. all the member countries of the Union. Hence, in the absence of internal control, the Community institutions should oblige Spain and other countries in similar conditions to adopt specific measures to control public spending, fiscal and financial policies, but also effective mechanisms to control political power and to abide by rules of action that prevent the imbalance of the European area, the interference of non-EU countries or ideologies or any other aspect that could jeopardize the future of the Union.

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<sup>8</sup> It is estimated that the Catholic Church saves the State 30.000 million euros per year.

Some of the aspects addressed and referred to Spain, *mutatis mutandis*, can be extended to Poland, Italy, Greece, Hungary, and other countries, perhaps prone to endemic problems resulting from a certain democratic immaturity.

In this context, the legal and fiscal treatment of religious denominations and their role in society as social agents that contribute to the common good and social peace, the ultimate and primordial goals of any self-respecting system, takes on a singular importance – often silenced or overlooked (García, 2008: 10–12; Martín, 2004: 54–56).

As it has been presented, the scarce resources allocated to religious denominations generate enormous benefits for society. On the other hand, the great resources that are destined to public communication media are a perfect example of the opposite: waste of resources, politicization, ideologization.

Spain is an example of perfect Partitocracy, which contrasts with a true rule of law. The problem is that the two large political parties – and other smaller ones that constantly benefit from the system, such as the regional, separatist and even anti-Spanish parties – are the great beneficiaries, hence the model is not questioned at all and from within existing.

Throughout its history, Spain has suffered numerous periods of great expansion and development, but also many others of clear and progressive decline. History demonstrates the need for mechanisms to limit political power (separation of powers and effective control of the judiciary).

Any country of the European Union can go into frank regression in the political economic and social spheres; the EU itself may go into decline if does not maintain some control over the States to guarantee the proper functioning of its institutions.

The only hope that remains for the citizens is that the European Union exercises controls of constitutional legality – such as the one that affects the separation of powers, and of the configuration of the budgets of the State and the Autonomous Communities (including the control of spending public), establishing corrective measures for the constant partisan political excesses. If effective measures are not adopted – and not taking long – there is danger, not only for my country, but even for the future of the Union itself.

Ortega was right when he said, more than a century ago, that “Spain is the problem, Europe the solution”.

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