

## THE BILL OF RIGHTS AND THE CONSOLIDATION OF DEMOCRACY IN SPAIN\*

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### I. FOREWORD

On June 29, 1776, it was proclaimed here in Williamsburg that

The future form of government for the state of Virginia should be constituted in such a way that "the legislative, executive and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to the other; nor shall any person exercise the powers of more than one of them at the same time, except the justices of the county courts shall be eligible to either House of Assembly."<sup>1</sup>

Two hundred years later we saw in Spain the end of Franco's regime. One of the main principles of Franco's authoritarian regime (1939-1975) was in fact that of the hostility against the principle of separation of powers and against the liberal belief of a limited government.<sup>2</sup> The principle of separation of powers is, in my opinion, the seed of democracy, as it is also the protection of natural and individual rights of human beings.

The transformation of Spain into an authentic constitutional democracy, in which human or individual rights have the proper protection that constitutional law can offer, was a complex process not expected or predicted before Franco's death. This is an experience similar to the rebirth of democracy in other countries of southern Europe, like Greece or Portugal.

Certain authors establish two sequences of emergence from dictatorship: on the one hand, the post-Second World War German-Italian-Japanese sequence; on the other hand, the post-1974 Iberian sequence.<sup>3</sup> Let us hope that recent events in Eastern Europe highlight a third or fourth sequence, if we consider in a separate form experiments in democratization in Latin America, the Caribbean and the Philippines. These new sequences settle the Spanish situation in a new perspective and show the utility of understanding the new Spanish Constitution.

In fact, our Constitution is seen these days with a great and increasing interest in many countries like Poland, Romania, Algeria or, in the Americas, Guatemala, where the impact of the Spanish new democratic institutions is indeed important. What can be the cause of this transition from dictatorship to democracy?