

Spain

All religions are equal, but some are more equal than others

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Introduction

Spain constitutes one of Europe's oldest states, yet one that has always been strongly characterized by its multinational, multilingual, and multicultural population. It has therefore struggled to reconcile centralization tendencies with the need to recognize and accommodate multiple belongings and overlapping identities and loyalties within one political unit.

It is also a country of recent immigration, which has seen a rapid growth in its Muslim population over the past few decades. Having been heavily hit by the 2008 economic crisis, Spain can offer some pointers and insights to Eastern European states that are currently struggling both with a weaker economy than their Western neighbours, and with immigration as a new phenomenon to be managed.

Despite having witnessed Europe's deadliest terrorist attack in Madrid in 2004 and another attack claimed by the Islamic State of Iraq and Syria (ISIS) in Barcelona in 2017, anti-Muslim sentiment has not found widespread representation in Spanish political parties (Lahnait 2018). Even though a fragmentation of the party system over the past years has made it more difficult to form a stable government, the general elections of 2019 (of both April and November) saw a strong turnout in favour of the socialist party, and while an extreme right-wing party entered Parliament for the first time, it did so by focussing on territorial and gender issues more than on religious or ethnic diversity.

Bearing in mind these issues, the chapter is organized in the following manner: the first section provides a socio-demographic context, followed by an overview of the most pressing challenges regarding religious diversity governance in contemporary Spain. The third section briefly traces the historical developments of Church-State relations in Spain in order to understand the current constitutional and institutional framework. Finally, the conclusions summarize and reflect upon the state of play of Spain's handling of religious diversity, looking at how it has shifted and been addressed differently with respect to different religious minorities.

Socio-demographic context

Emerging from 40 years of dictatorship in 1975, Spain developed plural liberal institutions and joined the European Union one decade later. In parallel with the juridical and

political changes, over the past decades the country has also seen important sociological changes in terms of the weakening of religion as a widely shared identity marker, new immigration fluxes arriving from outside the country, and the demographic composition of its population.

Regarding the role of religion in society, even though in line with Article 16.2 of the Constitution – which postulates that no individual may be compelled to answer questions regarding religion or religious beliefs – no religious affiliation indicator has ever been included in the national census, and therefore no official comprehensive data on religiosity exists. However, the public Spanish Centre for Sociological Research (*Centro de Investigaciones Sociológicas*, henceforth CIS) has been conducting periodic surveys that include a question on religious self-identification since the 1960s.¹ The results of such surveys over the years provide a clear picture of the overall and ongoing process of secularization of Spanish society, even though the question on religiosity was dropped by the CIS for some years during the 1990s (during which one can assume that the trend remained the same, even though, unfortunately, we have no data).

What we can observe from Table 7.1 is that, as is the case in many other Western European countries, religion has significantly declined in terms of the relevance it holds in individuals' daily lives over the past few decades (Pew Research Center 2015, 2018a, 2018b). Despite two-thirds of the Spanish population still identifying as Catholic (if asked to choose between the above-mentioned options), CIS has estimated that of those who self-identify as Catholic, less than 15 per cent attend mass regularly (there is however no systematic data collected on this issue, see Urrutia Asua 2016:124).

Table 7.1 Religious self-identification in Spain (1965–2019)²

Year	Catholics (%)	Other religions (%)	Non-believers/atheists (%)	No answer (%)
1965	98	0	2	0
1975	88	0.2	2	4
1985	87	1	11	2
2000	83	2.5	13	1.5
2005	79	2	17	2
2006	77.3	1.7	19.4	1.6
2007	76.7	1.5	19.7	2.1
2008	77.4	1.6	19.3	1.7
2009	77.4	1.7	19	1.8
2010	76.4	1.5	20.2	1.9
2011	74.3	2.6	21.7	1.4
2012	72	2.8	23.3	1.9
2013	72.4	2.3	23.8	1.5
2014	71.5	2.4	24.7	1.3
2015	69.3	1.9	26.3	2.5
2016	71.8	2.5	23.8	2.4
2017	69.8	2.6	25.2	2.4
2018	68.5	2.6	26.4	2.6
2019	67.5	2.9	26.8	2.7

Table based on data available at the CIS open database (<http://www.cis.es/cis/opencms/EN/index.html>) and in Urrutia Asua (2016, p. 122).

Table 7.2 Changes in total population and percentage of foreign residents in Spain (1991–2018)³

Year	Total population	Foreign residents	%
1991	38,872,268	360,655	0.9
1996	39,878,880	542,314	1.4
1998	40,303,568	637,086	1.6
2000	40,499,790	923,879	2.3
2002	41,837,894	1,977,947	4.73
2004	42,372,689	2,963,838	7.02
2006	43,516,505	4,012,765	9.27
2008	44,723,411	5,063,755	11.4
2010	45,283,064	5,440,232	12.2
2012	47,265,321	5,736,258	12.1
2014	47,171,105	5,023,487	10.7
2016	46,347,576	4,618,581	9.9
2017	46,354,321	4,572,807	9.8
2018	46,397,452	4,734,691	9.9

Data based on the Spanish Statistical Office (Instituto Nacional de Estadística, INE), available at <https://www.ine.es/>

Along with the decline in self-identified Catholics – which almost perfectly matches the increase in those who identify as non-believers or atheists – we observe a slow but steady rise, over the past decades, in those who identify with another (non-Catholic) religion. Such trend is strongly linked to a shift from Spain being mainly a country of emigration to its current status as a country of both emigration and immigration, with the percentage of immigrants residing in Spain growing from under 1 per cent in 1991 to approximately 10 per cent in 2018. Since immigration was virtually an irrelevant issue before the 1990s, the collection of systematic data on foreign residents in Spain is only reliable since then, as it was facilitated by the creation of a ‘Foreign Resident ID’ official document in 1992 (*Numero de Identificación de Extranjero*, N.I.E.).

The number of Muslims in Spain as of 2016 is estimated at 1,900,000, according to the Islamic Commission of Spain (CIE): 42 per cent have Spanish nationality, 39 per cent are Moroccan nationals, while the rest are migrants from other African countries (Algeria, Senegal, Nigeria, Mali) and from Pakistan and Bangladesh. These percentages are approximations based on the number of foreign nationals residing in Spain and the number of naturalizations of foreign nationals from predominantly Muslim countries over the past 20 years (*Unión de Comunidades Islámicas de España* (UCIDE) 2020) (Table 7.2).

While no disaggregated data exists with regard to the differences in religious affiliation between nationals and non-nationals, some cues can be taken by looking at the main countries of origin of immigrants and the distribution and development of places of worship in the Spanish territory over the past years.⁴ The ‘Worship places directory’ compiled by the Observatory of Religious Pluralism,⁵ lists 7,248 places of worship,⁶ most of which are situated in large urban settings (Barcelona, Madrid, Valencia) (Figure 7.1).

It is interesting to note how the number of places of worship present on the territory does not necessarily reflect the legal status or recognition of the confession in the Spanish system: for instance, while very few synagogues (39) are registered, the Spanish Federation of Jewish Communities is among the few to have a legal agreement with the State (Law 25/1992, more on this below) (Figure 7.2).



Figure 7.1 The Worship Places Directory compiled by the Observatory of Religious Pluralism. The Directory of places of worship is a tool for the identification and spatial location of the places of worship of the different religious confessions in Spain.

Regarding the main countries of origin of migrant communities residing in Spain, most newcomers have arrived from other European member states, North Africa, and Latin America. It should, however, be noted that migrants from Latin America can access Spanish citizenship after two years of continuous residence (while naturalization otherwise takes ten years), and once they naturalize, they disappear from the statistics on migration. Therefore, while according to the Spanish Statistical Office the main countries of origin of immigrants to Spain over the past years have been Morocco and Romania, followed by Colombia, the UK and Italy, Latin American communities are significantly underrepresented in the statistics; if it weren't for the naturalization rate (Marín et al. 2015:19), Colombia would lead the statistics (Figure 7.3).

Main trends and challenges

Regardless of the specific numbers, which are difficult to capture given the lack of religious indicators in the census, the diversification of the Spanish population as the result of immigration has brought with it both a revival of Catholicism from Latin American migrants (García 2005:232–37) and the need to recognize and accommodate 'new' religious practices and beliefs, particularly Islam, practised by migrants coming from North Africa, in an increasingly secularized society. Although it can be said that, in general terms, Spain allows anyone to freely exercise any religion, the main challenges in terms of respect for religious freedom existing in the country nowadays have to do with the practice of religion by – generally migrant – minority

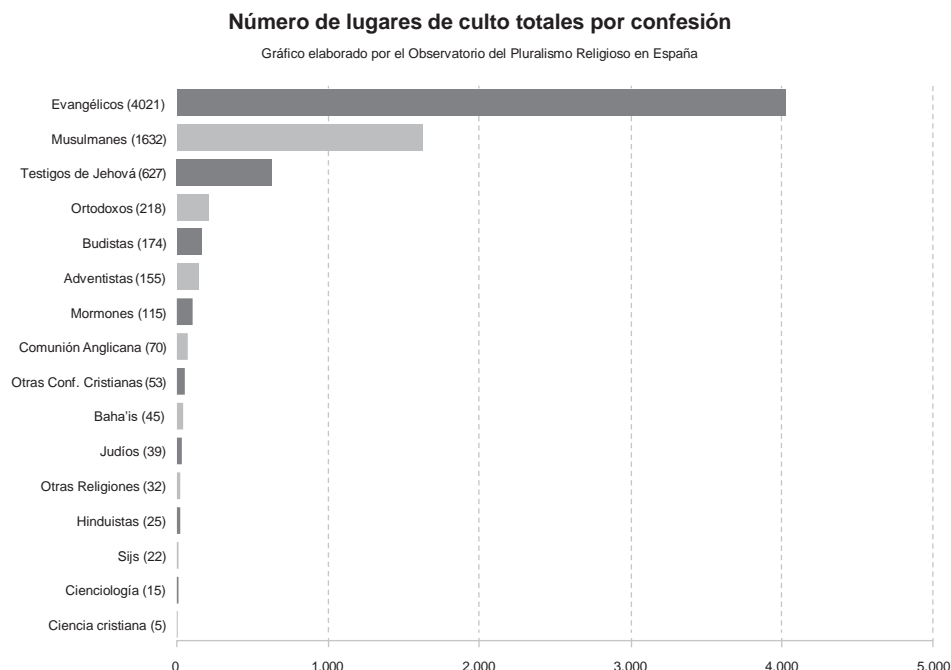


Figure 7.2 List of worship places by confession (excluded Catholic churches) in Spain in 2019. Data collected by the Observatory for Religious Pluralism. Available at: http://www.observatorioreligion.es/directorio-lugares-de-culto/index_graficos.php

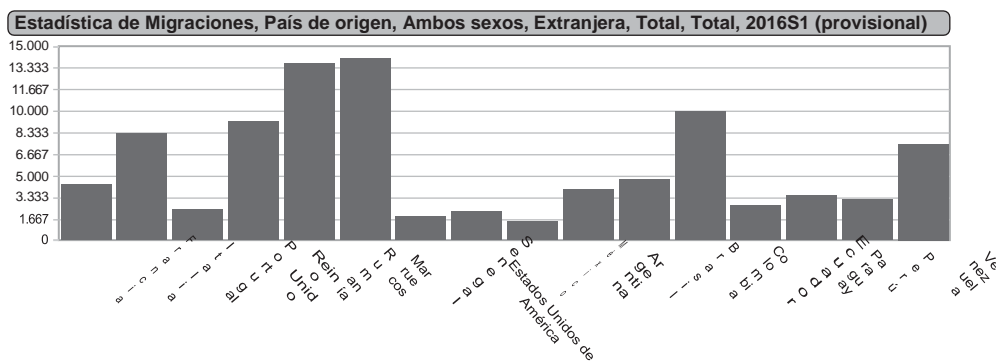


Figure 7.3 Number of foreign citizens residing in Spain grouped by country of origin in 2016.

groups. These consist, in practical terms, of obstacles in accessing public spaces faced by minority groups and in the unequal application of legal rights: as a number of scholars and stakeholders have noted, there are significant incoherencies and regional variations in the allocation of places of worship, of public lots for religious cemeteries, in the recognition of religious public demonstrations, and in the accommodation of religious claims in hospitals and prisons (Griera and Martínez-Ariño 2017; Ruiz Vieytez 2019; interview, Religious Pluralism Observatory,

April 2019). For instance, despite the equality principle enshrined in Article 14 of the Constitution, several Spanish cities have witnessed, over the past years, conflicts over the construction of mosques. In many instances local politicians have struggled to manage and appease the hostility of some of their constituencies over the construction of non-Catholic places of worship, resulting in controversies and discriminatory practices; difficulties encountered in opening or maintaining religion centres or places of worship is currently the most widespread complaint from minority religious communities in terms of exercising their right to religious freedom in Spain (Estruch et al. 2007; Moreras 2017; Urrutia Asua 2016). On top of the issues related to gaining access to real estate in an often hostile market, many religious communities have denounced administrative regulations and practices that have had the effect of significantly hindering the right to establish places of worship for members of any religious community.⁷

Regulations on this matter have somewhat improved after the reforms introduced through Law 27/2013, on the Streamlining and Sustainability of Local Administration, which, in line with the Services Directive (2006/123/EC), eliminated the need to obtain a licence in order to establish a new centre of worship. Despite this improvement, administrative practices at the municipal level continue to change between cities and regions, with different (and at times contradictory) interpretations being put forward, thus generating legal insecurity.

Another serious issue is that of discriminatory treatment by the State towards clerics of confessions other than the Catholic Church with respect to the access to social security and to retirement benefits. In practice, priests and clerics of the Catholic Church are ensured retirement benefits and access to social security, which is paid for by the government, but the same is not true for other confessions. The European Court of Human Rights established that this is tantamount to discriminatory treatment of clerics of confessions other than the Catholic Church since it is not objectively or reasonably justified⁸ (Moreras 2017; Ruiz Vieyetz 2012).

Moreover, due to the lack of institutional and social norms and practices properly adapted from the Catholic Church model to other religious institutions and communities, people belonging to minority religious groups often lack information and access to procedures such as the regional ombudsman and the judicial system. For this reason, the relatively low number of complaints or judicial cases regarding discrimination based on religious grounds should not be interpreted as a sign that there are no problems in the implementation of the right to religious liberty.

Regarding the wearing of religious symbols in public spaces (such as the *hijab* or the *kip-pah*), an issue that has been highly visible and contentious in some other European countries, in Spain the educational institutions have the authority to decide on dress code. This is due to a legal vacuum on this issue which has left the matter to the arbitrariness of each institute (Ruiz Vieyetz 2019:19; Unión de Comunidades Islámicas de España (UCIDE) 2013). However, in cases in which female students dropped out of school because of the school's ban on wearing the headscarf, the authorities have demanded their readmission based on the reasoning that the constitutional right to education supercedes the internal school regulations.

An historical overview of religious governance: a multi-tier system

The developments in Spain's constitutional history and in Spanish society more broadly are strongly intertwined with the history of the relationship between the Catholic Church and the State.

From its state-building process until recently, Spain has been a confessional state with Catholicism as the state religion. Born out of religious struggles mainly between Catholicism

and Islam, the first written mention of the ‘Spanish nation’ is to be found in Alonso de Santa Cruz’s *Crónica de los Reyes Católicos* (1491–1516). The Spanish Inquisition, under direct control of the Spanish monarchy,⁹ was voted down by the Cortes of Cadiz in 1812, and only completely abolished in 1834. The 1812 ‘Constitution of Cadiz’ was the first Spanish legislature that issued a liberal Constitution but asserted Roman Catholicism as the only official legal religion in Spain and outlawed all the others. Subsequent Constitutions (1837, 1845, 1876) followed in the same footsteps, maintaining no separation between State and Catholic Church; in 1851, the Spanish government signed a Concordat with the Holy See through which Catholicism was asserted as the state religion. The Concordat – which committed Spain to pay the salaries of the clergy as well as other expenses of the Catholic Church – was renounced in 1931 by the Second Spanish Republic with its secular Constitution. This was the first measure to ever establish a strict separation between religious and government affairs in Spain, and even though the 1931 Constitution accorded broad civil liberties, it was criticized as anticlerical and oppressive by the Catholic Church. The political polarization and the Civil War that ensued became strongly entrenched along religious lines, with the Catholic Church supporting the uprising of Francisco Franco in 1936 (Urrutia Asua 2016), which was presented as necessary to preserve the role of the Catholic Church (Pérez-Díaz 1993:162–68; Suárez Pertierra 2006:18–22; Urrutia Asua 2016:118).

Under Franco’s dictatorship (1939–1975), ‘National Catholicism’ (*Nacional-catolicismo*) represented one of the main tenets of the government’s ideological identity. This not only meant that the Catholic Church’s privileges – state subsidies, tax exemptions, censorship of materials deemed as offensive – were restored and that Catholicism was re-established yet again as the only religion with legal status, but also that the role of the church in both private and public life reached its peak, with compulsory Catholic instruction in public schools, restriction of sexual rights, and so on, sanctioned by the 1953 new Concordat.¹⁰

Francoist Spain’s National Catholicism has been described in these terms:

A Catholic state is the same as a confessional state. A confessional state does not mean that the instruments of government should be absorbed by religion, or that the state will be run by the clergy and the positions of the civil servants taken by priests. It basically means that the state as such, its codes, laws and institutions abide by God’s commandments and the laws of the Church, so that she can dedicate to spread the reign of God on Earth. A confessional state means having the cross and receiving religious education at school; it means recognizing the sacred nature of marriage between Catholics, and the religious status of the cemeteries.

(Colom González 2017:84)

While the 1960s saw some slight openings with the Second Vatican Council of 1965, it was not until Franco’s death in 1975 that a gradual separation between the Catholic Church and the Spanish State could be agreed upon in a new treaty.

Since 1978, with the current democratic Constitution, Spain is a secular but not secularist state, meaning that while public authorities are expected to be independent of ecclesiastical structures, they are however mandated to ensure that religious freedom is achieved, including the freedom to express and exercise one’s faith publicly. The only restrictions that may be adopted regarding the right to religious freedom relate to public security and with the principle of no harm to others.¹¹

The principles of freedom of religion and of a secular state are enshrined in Article 16 of the Constitution, which reads:

16.1 : Freedom of ideology, religion and worship is guaranteed to individuals and communities, with no other restriction on their expression than may be necessary to maintain public order as protected by law.

16.2 : No one may be compelled to make statements regarding his or her ideology, religion or beliefs.

16.3 : There shall be no State religion. The public authorities shall take the religious beliefs of Spanish society into account and shall consequently maintain appropriate cooperation with the Catholic Church and the other confessions.

(Boletín Oficial del Estado (BOE) 1978)

The regulations that operationalize such principles are contained in the Spanish Organic Law 7/1980 on Religious Freedom and in the Cooperation Agreements stipulated between the Spanish State and specific confessional institutions which will be detailed below.

In addition, Article 9.2 of the Spanish Constitution entrusts public authorities with the responsibility to promote conditions ‘ensuring that freedom and equality of individuals and of the groups to which they belong are real and effective, to remove the obstacles preventing or hindering their full enjoyment, and to facilitate the participation of all citizens in political, economic, cultural and social life’; and Article 14 prohibits discrimination based on ideological or religious grounds.

Current regulatory and constitutional framework

The main feature of the current regulatory framework concerns the fact that the Spanish legal system provides different types of recognition and collaboration agreements with different religions.

Spain’s shift to a governance model with no state religion attempted to reconcile the Catholic Church’s traditional privileges with secular and democratic constitutional principles. This resulted in a special treatment that is made explicit in Article 16.3 of the 1978 Constitution, which singles out the Catholic Church by requiring the State to cooperate with it (Souto Paz 2001). Such cooperation is regulated by four Agreements signed in 1979 between the Spanish State and the Holy See, and which replaced the 1953 Concordat. The agreements cover (a) legal matters; (b) educational and cultural matters; (c) economic matters; and (d) religious assistance in the armed forces and the military service of the clergy, and were incorporated into Spanish law as international treaties.¹²

The same constitutional provision, Article 16.3, also establishes that ‘[T]he public authorities shall take the religious beliefs of Spanish society into account and shall consequently maintain appropriate cooperation with the Catholic Church *and the other confessions*’. It has been argued that, by grouping all ‘other confessions’, the very system established to govern religious diversity and allow for a plurality of beliefs in the public sphere is at the basis of inequality between religious groups (Ruiz Vieyetz 2019).

In regulatory terms, given that the Catholic Church had already signed the Agreements with the State as a privileged interlocutor in 1979, the 1980 Organic Law on Religious Freedom – which implements the constitutional provision for freedom of religion – focussed on other religious groups. Such law establishes the right to (a) profess any religious belief; (b) take part in the liturgy in one’s own faith, celebrate religious festivities, hold marriage ceremonies, and receive decent burial; (c) choose religious and moral education in keeping with one’s own convictions; and (d) assemble publicly for religious purposes and form associations to undertake religious activities (Article 2, Law 24/1992, 10 November 1992).

In implementing these rights, the Organic Law established a legal regime and certain privileges for religious organizations. The enjoyment of the benefits of this regime, however, is conditional (based on Article 7) upon religious organizations being entered in the Register of Religious Entities maintained by the General Directorate of Religious Affairs of the Ministry of Justice.¹³

In addition to being included in the General Directorate of Religious Affairs, cooperation agreements with the State require that a confession be deemed as being ‘socially rooted’ or ‘clearly established’ in the Spanish territory (*notorio arraigo* in Spanish),¹⁴ which is defined as having ‘influence in Spanish society, due to their domain or number of followers’ (Article 7, Organic Law 7/1980).

Based on this principle, three cooperation agreements between the State and other confessions – namely, the Spanish Federation of Religious Evangelical Entities (FEREDE), the Spanish Federation of Jewish Communities (FJCE), and the Spanish Islamic Commission (CIE) – were reached and approved one decade later. They were codified in laws 24/1992 (Evangelical federation), 25/1992 (Jewish federation), and 26/1992 (Muslim federation) respectively, all passed on 10 November 1992.

These three agreements are treated as ordinary positive law emanating from the Parliament and entail a wide-range series of religious accommodation practices. While still not having the same privileges granted to the Catholic Church (which does not need to be registered in the General Directorate of Religious Affairs of the Ministry of Justice; enjoys a more favourable economic regime, and benefits from long-established institutions,¹⁵ these provisions marked a significant improvement for members of Evangelical, Muslim, and Jewish communities in 1992.

It should however be noted that the fact that the three Agreements present uniform standards in their scope, content, and wording constitutes a limitation and shows that the degree of participation on behalf of the religious minorities in shaping such agreements was, in fact, restricted. While all religious groups share certain necessities with respect to the freedom to practise their belief in the public space, different religious beliefs face different problems and require different solutions. The standardized approach to all non-Catholic religious communities suggests therefore that the government opted for granting generic rights, rather than seriously engaging in negotiation processes that would have led to differentiated bilateral agreements. Such an interpretation is coherent with the fact that in the early 1990s, when the State concluded these three Cooperation Agreements, there was significant institutional pressure to avoid signing multiple and different legal commitments specific to each religious community (Relaño Pastor 2016). The Spanish government therefore opted to engage in fewer agreements with broader federations of denominations rather than a larger number of agreements with individual religious groups. This has the advantage, from the state’s perspective, of reducing the number of interlocutors and thus the number of administrative, legal, and political issues to accommodate. However, it does not take into account the different needs and agendas of the diverse groups within the large federations that legally comprise one denomination.¹⁶

Beyond the Jewish, Muslim, and Evangelical communities, another four religious groups have been acknowledged to date as ‘clearly established’ in the country, which allows them to participate in the Advisory Commission on Religious Freedom.¹⁷ These are the Church of Jesus Christ of Latter-day Saints (2003), Christian Jehovah’s Witnesses (2006), the Federation of Buddhist Entities of Spain (2007), and the Orthodox Church (2010). Such recognition does not automatically entitle them to enter an agreement with the State that would afford them similar rights, economic or otherwise, to those confessions who already have one – but it is a step in that direction.

Beyond specific agreements with individual religious communities, a number of laws apply to all religions: these are the 1980 Organic Law on Religious Freedom; the Royal Decree 932/2013, through which the Commission on Religious Freedom is regulated; and the Royal Decree 593/2015, which regulates the principle of ‘social rootedness’. The 1980 Religious Freedom Law Act provided an important legal basis leading to a period of significant expansion of religious minority rights in the 1980s and 1990s; however, this framework has not been revised to keep up with the changes of an increasingly diverse society, nor has there been a reckoning about the privileges afforded to the Catholic religious tradition (Camarero Suárez 2006). The differential treatment provided by institutional arrangements to the Catholic majority, to religious minorities and to a growing non-religious population, continues therefore to pose issues that have to do with equality of recognition and access to the public arena:

This operates at several levels that affect the recognition of the various religious denominations and their funding. But it also poses some problems in the exercise of freedom of conscience by non-believers when their public processions or demonstrations are unreasonably and disproportionately banned in comparison with those of the Catholic tradition. The same can be said about the symbols that still persist in many public institutions in various spheres. [...] [T]he question of discrimination based on religious parameters remains open and becomes more substantial as Spanish society is also increasingly diverse in this area. It seems clear that the conditions for the exercise of this fundamental right are substantially different by virtue of this unequal public treatment which does not always appear to be entirely based on sociological or legal grounds.

(Ruiz Vieitez 2019:13–14)

The recognition of the various religious groups by the State and the positionality in five different levels of the various religious communities within the current Spanish system can be defined as a multi-tiered system and is summarized in Table 7.3.¹⁸

With respect to issues of religious presence and assistance in the armed forces, hospitals, and prisons, the legal system’s transformations often have not been accompanied by corresponding changes in public policies (Griera and Martínez-Arino 2017:256–57). In practical terms, despite the legal recognition of the right of religious minorities to religious assistance in public institutions, no policy measure was taken to operationalize such right for over a decade.

A positive change in this direction was marked by the creation, in 2004, of the Pluralism and Coexistence Foundation (*Fundación Pluralismo y Convivencia*) under the Ministry of Justice, to promote religious freedom and the inclusion of religious practices in the agenda of diversity management. Beyond offering economic and logistical support to officially recognized denominations, the Foundation set up the Observatory of Religious Pluralism in 2011 to study and share best practices in religious accommodation. Through information, research, and the development of guidelines and technical advice, the Foundation provides guidance to public administrations in the implementation of management models consistent with the constitutional principles and regulatory framework that govern the exercise of the right to religious freedom in Spain. Yet, as noted by the Vice-Director of the Foundation (who is also Technical Director of the Observatory of Religious Pluralism):

[D]espite this legal system being fairly inclusive with minorities, the mechanisms adopted for ensuring its implementation were extremely weak. The Spanish legal framework was originally designed in a top-down manner and left little room for the participation of

Table 7.3 Spain's multi-tier system of legal recognition for different confessions

Source: Table in Ruiz Vieytes, E. 2019, *The Spanish Observatory of Religious Pluralism: the challenge of fostering accommodation through information, dissemination and research activities*, p.12.

Unpublished paper kindly provided by the author.

<i>Level of recognition</i>	<i>Legal basis for different treatment</i>	<i>Confession</i>	<i>Legal status of the relationship</i>	<i>Church/body engaging in dialogue</i>
1	Constitution, Art. 16.3: specific reference	Catholics	international treaties	Roman Catholic Church
2	Clearly well-established (socially rooted) + Agreement with the State	Muslims Jews Evangelicals	Agreements + Laws	CIE (Muslim) FJCE (Jewish) FEREDE (Evangelical)
3	Clearly well-established (socially rooted) (without Agreement)	Mormons Jehova's witnesses Buddhists Orthodox	Recognition of being well-established/ socially rooted	Respective federations
4	Official Registration	Many	Register of Religious Entities ¹⁹	Each registered community
5	No registration	Rest of communities	–	–

other actors, making its implementation quite difficult. One of the biggest difficulties is that, ultimately, it is the local and municipal administrations who are charged with the responsibility of accommodating minorities; and yet, they are provided no budget by the government for it.

(Interview, Pluralism and Coexistence Foundation, April 2019)

Concluding remarks

Since the democratic transition, the institutionalized pattern of Church-State relations in Spain has evolved significantly. In 1980, the Religious Freedom Act was passed, codifying freedom of thought and religion and defining the procedures by which the State might protect the individual and collective rights of religious minorities (Boletín Oficial del Estado (BOE) 1980). Four decades later, the main challenge is that despite this legal system being fairly inclusive with minorities, the mechanisms adopted for ensuring its implementation have been extremely weak. This results in a significant differentiation in the right that different religious communities can exercise in practice. Such differences between religions are rooted in historical legacies, and even though Spain maintains a neutral position in religious matters (there is no official state religion), the official state neutrality is challenged by the practice of a disproportionately privileged treatment in favour of the Catholic Church.

As noted by Ruiz Vieytes (2019), among others, society's increasing secularization and the rise of religious diversity as a result of migration flows make the issue of a fair religious diversity governance increasingly salient. The contemporary Spanish legal system provides a relatively strong guarantee of freedom of religion; yet, the main limitations and unsatisfied demands regarding religious minorities often perceived them as 'foreign' or 'non-national'. Despite demographic evolutions (that is, a notable increase in Spain's Muslim population) the Catholic Church still occupies a powerful position as the majority religion: disentangling national identity from that of Catholicism remains a work in progress.

Notes

- 1 The question asked by the CIS surveys on religious self-identification does not offer respondents the possibility of specifying an alternative religious community with which they may identify. The question has not changed over the years, and remains the following: ‘How do you define yourself in religious matters: Catholic, believer of another religion (other than Catholicism), non-believer or atheist?’ (in Spanish ‘¿Cómo se define Ud. en materia religiosa: católico/a, creyente de otra religión, no creyente o ateo/a?’)
- 2 Table based on data available at the CIS open database (<http://www.cis.es/cis/opencms/EN/index.html>) and in Urrutia Asua (2016:122).
- 3 Data based on the Spanish Statistical Office (Instituto Nacional de Estadística, INE), available at <https://www.ine.es/>
- 4 The Observatory of Religious Pluralism, a research institute and knowledge transfer tool for the public management of religious diversity created in 2011 by a public foundation called Pluralism and Coexistence (*Pluralismo y Convivencia*), has developed a ‘Worship place directory’ where it is possible to map all existing and registered worship places by confession and by region in the country. The directory is available at <http://www.observatorioreligion.es/directorio-lugares-de-culto/>
- 5 The dataset combines three sources of information: the Registry of Religious Entities of the Ministry of Justice (last update: 01-12-2018); the research promoted by the Pluralism and Coexistence Foundation; and the applications for registration, cancellation, or modification of the data communicated by the representatives of the religious communities.
- 6 Catholic Churches are not included in the map as there are so many of them that it would render the rest of the data impossible to read.
- 7 For instance, the 2012 urban planning for the city of Bilbao (*Plan General de Ordenación Urbana*) forbade the establishment of any new non-Catholic worship sites in residential buildings to avoid conflicts with residents who had complained about mosques generating noise or disturbance. Such Plan was revoked in November 2014 as the result of an appeal to the Court of Justice but is far from being an isolated case. To date, the most progressive regional autonomy is Catalunya, which has seen both the most progressive implementation of religious accommodation and the most legal cases being brought against the establishment of mosques (Relaño Pastor 2016; interview, Religious Pluralism Observatory, April 2019).
- 8 See ECHR, Judgement of 3 April 2013, *Manzanas Marin vs. Spain*, Application no. 17966/10.
- 9 While Catholicism represented a main pillar of Spain’s colonial empire during its so-called Golden Age, the Spanish monarchy insisted on its independence from the Pope. Bishops in the Spanish domains were forbidden to report to the Pope except through the Spanish crown, and in 1767 Carlos III expelled the Jesuits from their Spanish empire, accusing the congregation of having promoted the Esquilache Riots of 1766.
- 10 Based on the 1953 Concordat, Franco secured the right to appoint bishops in Spain.
- 11 Even when such limitations are called into cause, the Spanish system requires public authorities to evaluate each specific case following the principle of proportionality (since only minimal restrictions can be imposed on fundamental freedoms).
- 12 The agreements that currently regulate the relationship of the State with the Catholic Church are, in addition to the Agreements of 1979, the Agreement of 1976 between the Holy See and the Spanish State and the Agreement of 1994 between the Holy See and the Kingdom of Spain on matters of common interest in the Holy Land (see <https://www.religlaw.org/content/religlaw/documents/agrsphs1976.htm>).
- 13 The register, established in 1981, is updated regularly, and the norm that regulates its entries was updated in 2015 with Law 594 of 3 July 2015 (available here: https://www.boe.es/diario_boe/txt.php?id=BOE-A-2015-8643).
- 14 Being considered ‘socially rooted’ in Spanish society is an indispensable prerequisite for any religious group to reach an agreement of cooperation with the State. The definition of the requirements and the procedure for the obtaining of the ‘notorious arraigo’ is regulated by Royal Decree 593/2015. The requirements that the confession must meet are:
 - (a) To be registered in the Registry of Religious Entities for 30 years;
 - (b) Demonstrate a presence in at least ten Autonomous Communities or the Cities of Ceuta and Melilla;
 - (c) One hundred entities and/or places of worship registered in the Registry of Religious Entities;
 - (d) Possess an adequate structure and representation;
 - (e) Presence and active participation in Spanish society.

- 15 For instance, the government income tax form includes a box that allows taxpayers to assign 0.5 per cent of their taxes to the Catholic Church. A taxpayer who chooses not to assign a share of his or her taxes to the Catholic Church can only choose ‘social associations’ as an alternative.
- 16 The Islamic Commission of Spain (CIE) is made up of two federations of Muslim communities, both of which have 50 per cent representation. Because the CIE is the organ that interacts with the State, the lack of understanding between these two federations has resulted in significant obstacles to the implementation of the 1992 agreement.
- 17 Article 8 of the Organic Law of Religious Freedom established the creation of the Religious Freedom Advisory Commission under the Ministry of Justice. The Commission has the powers to study, report, and propose on any issue related to the application of the Organic Law 7/1980. It also has competence over the preparation of cooperation agreements with other religious Confessions on which it can express a binding opinion; additionally, at the justice ministry’s request, it can advocate for the registration of Religious Entities in the official State Registry.
- 18 Table in Ruiz Vieyetz, E. (2019), *The Spanish Observatory of Religious Pluralism: the challenge of fostering accommodation through information, dissemination and research activities*, p. 12 (unpublished paper provided by the author).
- 19 The registration of a Religious Entity into the Directory of Religious Entities maintained by the Spanish Ministry of Justice carries no legal consequence, in that it affords the registered religion no preferential treatment nor access to those rights afforded to those religions that are deemed ‘well-established’. Registration into the government’s Directory is however a prerequisite to access the status of ‘well-established’, together with the need to prove the religion’s ‘rootedness’ in the territory (by number of followers over the years).

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