The Regulation (or Repression) of Political and Solidarity Strikes: Durable Legacies of Dictatorship

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Abstract: This article examines the enduring legacies of Franco's dictatorship in Spain's regulation of the right to strike. Despite constitutional recognition, strikes remain governed by a pre-constitutional 1977 Royal Decree that prohibits political and solidarity strikes, creating a stark contradiction between Spain's democratic constitutional framework and transitional-era norms rooted in authoritarian conceptions of social conflict.
The analysis explores how the democratic transition left institutional inheritances constraining workers' collective action rights. This obsolete regulatory framework has generated extensive litigation, as courts have sought to reconcile pre-constitutional restrictions with constitutional guarantees. While recent Supreme Court decisions have begun admitting solidarity strikes, fundamental prohibitions persist. The article demonstrates how incomplete democratic transitions can perpetuate authoritarian legacies, and advocates for comprehensive legislative reform recognizing political and solidarity strikes as legitimate fundamental rights.

Keywords: Right to strike - Spanish democratic transition - Political strikes - Solidarity strikes - Fundamental rights

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Summary: 1. Collective action as an "inscription" of solidarity in the regulation of social policies. — 2. Conflict and models of regulation: the Spanish case as a post dictatorial model. — 3. Judicialization of solidarity strikes and political strikes as legacies of the authoritan regime: an unstable regulatory system

1. Collective action as an "inscription" of solidarity in the regulation of social policies

Conflict is a fundamental element of individual-level and collective relations[1]; the effort to deny the existence or legitimacy of divergences has negative consequences in their resolution, increasing instead of reducing polarization.

Collective action, as a reaction to the existence of divergences, may include forms of joint conduct developed by actors seeking to promote the shared interest of a group of persons in relation to others (López López 2019). The conflict that results and the movements that emerge in such contexts generate varied repertoires of social conflict shaped not only by the choices of people but also by historical conditions and circumstances[2]. The embeddedness of political systems regulating forms of expression of divergences – or conflict – has an important impact on the repertoires that actors chose to engage in these conflicts. Democratic systems are clearly more permeable than dictatorships to the recognition of conflicts and to the acceptance of a broad spectrum of forms of protest. The ways in which conflict may be exteriorized encompasses an extended repertoire of collective action: protests, strikes, boycotts with different subjects and strategies. The actions of unions of workers represent an important component of that repertoire and include both strikes and court action focused on the defense of rights in public institutions (López López 2015).

In this context, models of regulation of the right to strike are of crucial significance for debates not only about solidarity but also regarding the status and dimensions of democracies. I focus here on how processes of transition from dictatorship to democracies generate durable legacies in terms of fundamental rights.

The rule of law establishes various foundations for the regulation of conflicts and as a result models of regulation of conflict vary between political and legal systems. Some models understand the right to strike as rooted in

[1] For a general theory of strikes and social conflicts see (Hyman 1989).
[2] See repertoires of protest in (Della Porta and Diani 2011).

basic liberties whether at the individual level or the collective one and the Spanish constitutional model bases the right to strike as a fundamental one.

Regulation of strikes is a multilevel phenomenon and, in this context,[3] a main point of reference in interactions with the national level is the Charter of Fundamental Rights of the European Union (Lo Faro 2018). The Chapter is a crucial referent because it treats collective action as part of the Solidarity principle, including the freedom of association and to collective bargaining and protest as fundamental to the defence of employees' interests. Chapter VIII declares all levels of workers' participation as inscriptions of the content of Solidarity, from workers' right to information and consultation and extending to the right to engage in collective negotiations. This signifies a definition of participation as a process including a deliberative agenda, negotiation and collective bargaining. Chapter VIII also includes the right to collective action such as protest and strikes (López López, ed. 2023; Turner and Cornfield 2007). The inscriptions of solidarity collected in the Chapter of the Charter of Fundamental Rights recognize a broad set of instruments to exteriorize conflict as part of the process of workers' participation in deliberation and regulation extending beyond those formulated by labour policies. The legal treatment of strikes is embedded in a broad set of collective rights and regulations. Thus, it is important to underline that it conceptualizes conflict as not only disruptive but also as regulatory of social relations (López López, Chacartegui Javea and Gonzalez Canton, 2011).

The EU model of the fundamental right to strikes and protest is integrated in a Chapter which recognizes protection against unfair dismissal (article 30), as well as the rights to fair and just labour conditions (article 31), social security and social assistance (article 34) and other labour rights – treating these as falling within collective action rights.

The Charter is not only a main point of reference for policies of Solidarity at the EU level but also in the application of European Union regulation by member states (Rodotà 2014). This is to say that member states draw on the Chapter when they apply European union regulation. This is a very significant point of departure to analyse conflict and models of regulation of strikes as well as their connection with other collective rights (Ichino 2006). I argue that it is also important to place the regulatory model for collective action within an analysis of models of democracies and democratic dynamics, an objective that I develop here. The purpose of this article is to study the Spanish case as a democracy to pinpoint the legacies of dictatorship in the regulation of collective action and strikes as well as the consequences of those legacies for the

[3] For comparative labour law and interactions with international law see (Aaron and Stone 2007).

existence of deficits in democratic depth[4]. As I elaborate here, the judicialization of political and solidarity strikes plays an especially crucial role in these dynamics.

2. Conflict and models of regulation: the Spanish case as a post dictatorial model

The Spanish transition from dictatorship to democracy involves a process which is still historically "open", which is to say subject to revision and ongoing transformations (Fishman 2025) and the regulation of conflict provides a clear example of this. The Franco regime eliminated the freedom of expression and collective rights for citizens, replacing them with widespread repression. The transition to democracy began after the dictator's death in power in November 1975, leading to the holding of elections in June 1977 and following that the drafting of a democratic Constitution. The Spanish Constitution of 1978 broke thoroughly with the model of dictatorship that for more than forty years had denied conflict and repressed protest. The implementation of the democratic constitutional text was preceded by a negotiated transition with the participation of both veterans of the Franco system and of the democratic opposition to that system. This process left its legacies in the model of social rights and the regulation of collective action. In this sense, the Transition – with its elements of institutional inheritance – has left its impact on the regulation not only of individual rights but also in the legal treatment of freedom of association, collective bargaining, protest and strikes. As a result, the legal construction of divergences under democracy has inherited elements of regulation which understand conflict not only as a reflection of the plurality of points of view in society but also as a problem.

The role of regulation has to be inserted in a political and social context to be understood properly. In this logic, the Spanish case offers examples of the legacies of the Franco dictatorship in the regulation of strikes and the treatment of collective action in the democratic development of the Constitution.

The embeddedness of the legal regulation of collective action in the case of Spain's post-dictatorial democracy rests in part on key elements of the Spanish Constitution. The constitutional text, in its Preliminary Title, Article 1, defines Spain as «a social and democratic State subject to the rule of law, which advocates freedom, justice, equality and political pluralism as the highest values of its legal system», and in Article 7, stipulates that «trade unions and employers associations contribute to the defense and promotion

[4] On the place of protest in democratic depth see (Fishman 2025).

of the economic and social interests which they represent». The political model implemented by the Spanish Constitution recognizes conflict as a foundation of the system and entitles individual and collective rights to people to express their divergences with a broad list of repertoires including freedom of expression, freedom of association, and the rights to protest and strike which interact with other constitutional considerations in designing the bases of dignity and equality.

Article 9.2 of the constitutional text defines as responsibilities of the public authorities the promotion of conditions ensuring that the freedom and equality of individuals and of the groups to which they belong are real and effective, the removal of obstacles preventing or hindering their full enjoyment, and the facilitation of the participation of all citizens in political, economic, cultural and social life.

The constitutional system emerged with a strong component of international labour law, not only because Article 10 established that «the Provisions relating to the fundamental rights and liberties recognized by the Constitution shall be construed in conformity with the Universal Declaration of Human Rights and international treaties and agreements thereon ratified by Spain» but also because of the important role played by ILO Conventions emphasizing freedom of association and collective bargaining. A final point of reference is found in Article14 which rules that Spaniards are equal before the law and may not in any way be discriminated against on account of birth, race, sex, religion, opinion or any other personal or social condition or circumstance.

To understand the model of collective action regulation in Spain it is crucial to conceptualize the political Transition as a still open process that quickly established a democratic model but that left legacies of the past and of the transition era in the regulation of strikes and protest. The main regulation in the legal system's current treatment of this issue is a Transition era one that initially seemed to be provisional.

During the Franco dictatorship the denial of social conflict, the prohibition of the plurality of political parties and unions, and the obligatory integration of both employers and workers in a "sindicato vertical" stood as fundamental elements of the system. In the Transition, initially, and especially prior to the first democratic elections in June 15 of 1977, the continuing repression of protest and of strikes defined the regulation of conflict as a pre-constitutional system.

The evolution of the system toward the democratic guarantee of collective rights has as points of reference the regulations implemented in the late 1970s which started to open the model to democracy. These included the Am-

nesty Law[5] which underscores the key point that the transition in Spain was not a rupture with the Franco model but instead developed in legal terms as an evolution of that system. Crucial to the new treatment of strikes was the 1977 approval of Royal Decree-Law of Industrial relations[6] in which strikes were recognized as a freedom with some limitations regarding types and the process of calling strikes. This fundamentally important norm was pre-constitutional. The repertoire of permitted strikes is extremely limited in this regulation. It maintains the prohibition of political and solidarity strikes and strikes with workplace occupation thus producing a very narrow definition of the space for protest and collective action. This framing of the right to strike – which continues in place nearly fifty years later – should be seen as a legacy of the transition and to some degree of a prior regime in which conflict was seen as a failure of the social system.

On the other hand, the Spanish Constitution of 1978 establishes certain collective rights as fundamental rights including freedom of asociation and the right to strike (sections 53 and 161 of the Spanish Constitution). In contrast, the right to collective barganing is a right protected constitutionally as a principle and freedom which has to be developed by law[7].

Freedom of association is recognized as a fundamental right in Articles 7 and 28.1 of the Spanish Constitution which declares that everyone has the right to freely join a trade union. The law may limit the exercise of this right or make an exception to it in the case of the Armed Forces or Institutes or other bodies subject to military discipline. This right – linked to the broader freedom of association – has both individual and collective contents: workers are entitled to found and join trade unions. Unions can organize themselves as federations or confederations. Nobody may be compelled to join a trade union.

There is a clear contradiction in this legal constellation: a crucial fundamental right that is recognized as such in the Constitution is developed and specified by a pre-constitutional norm, namely the Royal Decree of 4 March 1977.

The constitutional democratic model developed the system of collective bargaining in the Workers Statute of 1980 (Ramos Quintana 2019). This law treated not only individual rights, but also collective ones as previously specified in Article 37 of the constitutional text. A key feature of the Workers Statute and the model it develops is the formulation of a double channel of representation: non-union workers' representation and union representation

[5] Law 46/1977 of October 15, BOE n. 248 of 10.17.1977.
[6] RDL of 04.03.1977, BOE n. 58 of 03.09.1977.
[7] On the spanish collective bargaining model, see (Chacartegui Javea 2019).

are both elaborated in this text with the difference depending on the level of the unit engaged in negotiation: the firm or the sector. The second important feature in the Workers Statute is the *erga omnes* effect of collective bargaining. The law guarantees the binding force of the negotiated agreements.

In 1985, the Organic Law of Union Freedoms[8] develops the fundamental right of labor association and in combination with the Workers Statute recognizes the institutional function of unions thougth the elaboration of a distinction between unions' "representativeness" (established in the Workers Statute in works council elections and providing the basis for the right to negotiate and sign collective bargaining agreements with *erga onmes* effects), and the representativity of unitary elected bodies (as established in the Workers Statute) at the enterprise or worplace level. The representativiness established by unions and their *erga onmes* collective bargaining are the two axes of the model. According to Art. 2.1 of the LOLS, union activity includes the capacity to call for strikes, protest and more.

The right to strike is guaranteed for workers in Article 28.2 of the constitutional text in the defense of their social and economic interests. However crucially there is no postconstituional regulation of the right to strike in the Spanish case. The fundamental right is regulated by a complex constellation including Art. 28.2 of the Constitution, the Royal-Decree of March 7 of 1977 issued a year and a half prior to the enactment of the Constitution and interpretive case law April 8 of 1981 which tries to adjust the 1977 regulation to the Constitutional treatment of strikes as a fundamental right. The case law fails to fully attain this goal because a fully developed system of fundamental rights in a democratic system requires more than the somewhat limited effort of this judicial interpretation to simultaneously recognize the limits on certain types of strikes of the 1977 regulation and the constitutional conception of strikes as a fundamental right.

Thus, the constitutional case law of 1981 serves as a fundamental component of Spain's anomalous combination of pre-constitutional (and somewhat restrictive) regulation, dating from the transition era, with the constitutional recognition of a fundamental right. The constitutional case- law defines the right to strike as «the cessation of work in any of its manifestations» but the 1977 regulation of the Royal-Decree considered some of those "manifesta–tions", that is some types of strikes, to be illegal or abusive (arts 7 and 11 of the norm). For example, the 1977 Royal Decree defined as illegal or abusive acts «staggered strikes, those carried out by workers in strategic sectors in order to disrupt the production process, working to rule and in general any form of collective alteration of the work regime differing from that of strike».

[8] LOLS 11/1985 of 02.08.1985, BOE n. 189 of 08.08.1985.

The 1981 case-law declares the fundamental right to strike as a collective and individual right. The Sentence of the Constitutional Court (1981) maintains that Art. 28.2 of the Constitution entitles workers individually with the fundamental right to strike but that the exercise is a collective one. Thus, the constitutional interpretation of Article 28.2 is a hybrid reading with reference to actors[9].

Some of the most important points are connected with the definitions stipulated in the constitutional court's case-law: «The right to strike is defined as a right attributed to workers *uti singuli* although it has to be exercised collectively by agreement between said workers. In order to clarify what is meant by collective exercise it should be clarified that [this involves] the faculties of the right to strike, the call to strike, establishment of demands, publicity or external dissemination, negotiation and finally, the decision to end the strike. It is therefore possible to state that, although all workers hold the right to strike and each one has the right to take part or to abstain from striking, the powers included in the right to strike, in respect of collective and concerted action correspond both to workers and their representatives and union organizations».

The components of Spain's pre-constitutional regulation of strikes that are restrictive and thus potentially problematic from a fully democratic point of view are quite significant: Article 7 of the Royal Decree stipulated that "rotation strikes", as well as those carried out by workers who provide essential services, and any form of alteration in work other than the strike will be considered as abusive acts. Article 11 of the Royal-Decree , declared that a strike is illegal : «a) when it is initiated or sustained for political reasons or for any other purpose unrelated to the professional interest of the affected workers; b) when it is of solidarity or support for other workers, unless it directly affects the professional interest of those who promote or support it; c) when it aims to alter, within its period of validity, what was agreed in a collective agreement or was established by award and finally; d) when it occurs in contravention of the provisions of this Royal-Decree, or what is expressly agreed in the collective agreement for the resolution of conflicts». This list of restrictions is double in nature, incorporating types of strikes that are deemed either illegal or abusive. Crucially the list of prohibited types of strikes includes both political and solidarity strikes. The April 1981 ruling of the Constitutional Court interprets the 1977 restrictions as a *iuris tantum* presumption thereby allowing workers accused of striking illegally the possibility to prove that their action was not abusive. However, despite the Constitutional Court's generous reading of the 1977 restrictions, the continuing existence of

[9] On hybridation and labour law see (López López, ed., 2026).

a norm indicating that political and solidarity strikes are illegal stands as the largest legal failure in the development of the democratic model of social rights set down in the Constitution.

The legal configuration combining the strike regulation put in place by the pre-constitutional norm of 1977 and the constitutional case-law (1981) which is previous to the 1985 Organic Law of Union Freedoms (LOLS) created several contradictions related to the complexity of understanding the development of a fundamental right with these references.

In the ruling of the Constitutional Court, the limitations are justified under the concept of mutual sacrifices referring to the text of Art. 28 — the right of workers for the defense of their interests — thus making a very clear connection between the constitutional provision and the idea of obtaining social equality. In the case of essential services for the community, the Court ruled that the right of the community to benefit from these vital services has priority over the right to strike[10].

A main point in my argument is that despite the provision of the Constitutional Court's case-law reducing the illegal definition of solidarity strikes, the result is not compatible with a model of strikes as a fundamental right in a democratic and social constitutional system. The case-law revised the meaning of illegal solidarity strikes and ruled that «the fact of union strikes requires recognition of the strike convened by a union in the defense of demands which the union considers as decisive in a given moment, which includes solidarity between union members. It is possible to examine the question raised by section b) of Art. 11 of the Royal Decree-Law 17/77, strikes of solidarity are not illegal when the solidarity is founded directly on professional interests of those promoting or sustaining it».

The Royal Decree's reading of political strikes as illegal activity significantly represses unions and workers, constraining their right to defend the general interest as in the case of general strikes defending public education, public health care or sustainability of pensions.

My fundamental argument in this article is that the current Spanish model of strike regulation is a continuing legacy of the Transition which avoids a complete rupture with the previous political regime in its underlying conception of conflict. The prohibition of political strikes is a key example of this reality. This and other prohibitions have consequences. The post constitutional social model developed in the Workers Statute (1980) elaborates a strong system of collective bargaining based on dialogue and subsequently on the LOLS' support for the presence of workers representation in the processes of negotiation. At the same time that collective bargaining negotiation

[10] On the debates in Italy, see (D Antona 1971).

is subject to the regulation of collective action by a pre constitutional norm which the courts continue to apply even though the LOLS is also an organic law and it is more recent, having been enacted in 1985.

3. Judicialization of solidarity strikes and political strikes as legacies of the authoritan regime: an unstable regulatory system

The scenario of employment relations presents a complex set of agents, goals and instruments which provides challenges to the regulatory systems. Strikes and their regulatory frame have to be embedded in a broad repertoire of social action with a plurality of subjects including formal and informal workers, self- dependendent and autonomous workers who act upon their divergences in differents forms of protest, boycotts and other practices.

The main question posed by this constellation is how to protect the exercise of the strike as a democratic instrument in a scenario with multiple powerful multinational actors and a broad map of interested workers and employees (Barenberg 2022). Despite the fragmentation of labour law and worker interests, it is undeniable that capitalism and the rules of the labour market generate common goals for workers, autonomous and informal employees in order to defend fundamental rights on a worldwide basis. Some authors have supported the theorical framework of social liberties to ensure a robust protection of the right to strike, based on the individual subject (Bogg and Estlund 2018). This approach is very interesting but –as the Spanish Constitutional Court's case–law of April 8 1981 argues – although individuals are entitled to this fundamental right, its exercise is collective. The fundamental right to strike is a tool to express divergences not only against the employers but also potentially public institutions and this opens a broad set of references of fundamental rights that protect the freedom to express conflicts.

The legacies of the Franco regime and the Transition have created a regulatory frame with roots in a dictatorial regime which understood conflict as disruption for society. That regime repressed social moviments and protest including them as a crime in Criminal Law.

The chronology of Spain's development of workers' fundamental rights was that in 1980, the law elaborated both individual rights and collective bargaining institutionalized through the double channel of workers representation in the Workers Statute and in 1985 the LOLS set out the legal bases for union activity in pursuit of workers' interests and the freedom of association. The union activities specified in the 1985 legislation included collective bargaining and the calling of strikes. The main contradiction with this chronology is the Royal-Decree of April 1977 which continues to shape the legal regulation of strikes despite its rooting in the political circumstances in place

prior to the first post-Franco elections. Full freedoms for workers associations were to be elaborated later but the legal regulation of strikes has still not fully reflected that transformation after the 1977 Royal- Decree.

To address the challenges posed by this obsolete frame of regulation for protest and strikes it is useful to examine the case of platform workers, an emblemàtic instance of global firms, global stategies of unions and hybrid instruments of collective action. Platform workers have mobilized at different institutional and geographic levels, sometimes globally, to achieve a more favourable labour status. They have submitted claims to labour departments or inspectorates at the administrative level, and to labour courts or courts of general jurisdiction at the judicial level (López López and De le Court 2020).

Analysis of the case of platform workers sheds light on an important point and a main feature of collective action, namely the hybridization of instruments and mechanisms of protest. In the defense of platform workers, unions call for strikes and at the same time use judicialization of cases as a combined strategy.

In Spain's post-dictatorial system criminal law remained a part of the legal frame regulating strikes and protest until 2021 when Organic Law 5/2021[11] abolished the criminal treatment of certain strike behaviours in Article 315.3 which had punished the information right of strikers. In the 2021 law abolishing that criminal prohibition, the Preamble of the Law declares: the conservative party PP attacked the ways to externalize conflict with the Organic Law 4/2015, March 30 on people's security and the Art. 315.3 of criminal law which sought to discourage protest.

The durable legacies of Franco's dictatorship in the regulation of strikes has implied on the one hand a post-dictatorial regulatory activity overturning Francoist or neo-Francoist norms as for example the article of the 1980 Workers Statute which abolished Article 37J of the Royal-Decree which had included as a cause for dismissal from work an employee's participation in an illegal strike. The legal work needed to end legacies of the Francoist past has continued as in the much more recent exemple of the 2021 law derogating Article 315 of the Criminal Code which had criminalized the activity of information in a strike. This legal overturning of Franco legacies has been a constant process from 1976 to 2021 and beyond.

In the construction of constitutional rights the role of the judiciary has been very important in Spain and it serves as an indicator of the unfinished process to develop the legal implications of the democractic constitution. On the other hand there is an increased judicialization of strike regulation that interprets the structure of the strike as a right. Among the issues subject to

[11] Of 22 April 2021, BOE n. 97 of 23.04.2021.

judicialization are the matters of defining essential activities and minimal servicies required during strikes as well as the illegality of some forms of strikes, among these political and solidarity strikes. The reliance in practice on the judiciary to develp the right to strike – given the anomalies presented here – has significant consequences including the instability of the system and the contradictions between judicial decisions constituting case-law thus increasing the individualization of the reading of labor's right to strike.

A point of departure is some jurisprudence of Spain's Constitutional Court and Supreme Court which declares as violence against the fundamental right to strike the abusive use of the entrepeneur's power during the excercise of strikes[12].

One very important point is that judges have acknowledged that the regulation of strikes is obsolete[13] as in the controversial question of the extension of minimum services during strikes. On this point the jurisprudence has ruled that the regulation of the strike is obsolete and insufficient. The jurisprudence has set a solid floor stipulating that the fixation of minimum services cannot have as a consequence that the strike is impracticable; minimum services have to be set by sector and activity in a way that preserves an equilibrium among the affected rights.

Another structural question with a considerable number of case law decisions involves reducing the power of the employer to replace workers during strikes; the jurisprudence understands that it is a violation of fundamental rights to substitute strikers with external workers[14].

An important implication of the obsolete regulation of strikes concerns the status of political and solidarity strikes, which the Royal-Decree of 1981 and (with nuances) the Constitutional Court decision of 1981 rule to be illegal. I argue that this limitation constrains the ability of unions and workers to contribute to democracy's "depth", an important objective in democratic theory (Roberts 2021, Fishman 2016).

More recent Spanish jurisprudence has extended the considerations permitting unions to call strikes for reasons of solidarity without however removing the entirety of the prohibition. The Supreme Court ruled on March 26, 2025[15] that it is not illegal to call a strike to defend against a dismissal of an individual worker because the unions are defending employment policies in the workplace. In this important jurisprudence the unions are entitled to call for a strike and the cause of this activity can integrate hybrid strikes ad-

[12] For example, see Supreme Court 237/2016, 18.03.2016 (rec. 78/2015); 499/2021, 06.05.2021 (rec. 4975/2018); and 273/2023,13.04.2023 (rec. 217/2021).
[13] Supreme Court sentence 340/2025, 16.01.2025 (n. 28/2025.).
[14] For example, Supreme Court, 03.02.2021 (n. 153/2021).
[15] STS 1288/2025 and STS 4332/2025, 06.10.2025 (n. 884/20259).

dressing solidarity/labour conditions which affect the general interest of workers.

In another important decision of the Supreme Court, this one in 2020, the Court's construction of article 11 of the Royal-Decree reduces the space to interpret political strikes as illegal with a definition stipulating that the strike has as a goal to defend economic and social interests and also could be a form of protest for other questions. This approach of the Court is very important to protect the essential content of the strike as a fundamental right[16]. A strike, following this jurisprudence is deemed legal not only if the interests being defended belong to the strikers themselves but also if they encompass the interests of a category of workers. Art. 11 b) of the Royal Decree is by extension to be understood to indicate that the strike is legal when the goal is to defend interests of the working class. Crucially, this pathway to guarantee the fundamental right is rooted in recent jurisprudence written decades after Spain's post-Franco transition.

The classic formulation of sociological theorist Georg Simmel arguing that conflict is functionally beneficial to social systems that tolerate and institutionalize it suggests how important it is for Spain and other countries to fully accept strikes and the contribution to democratic life that they provide (Simmel 1956). Spain's somewhat slow and still incomplete institutionalization of strike behaviour in the post Franco years has, in its limitations, roots in Franco's dictatorship and subsequently in the early phase of the post-Franco Transition. As a result, in the pursuit of labour law adaptations to these limitations Spanish unions and workers have had to judicialize their cause in order to gain recognition of their rights (López López 2021). It is crucial to move from a "paternalismo costituzionale" to a "diritto costituzionale interattivo" (Ferrarese 2002) to be ready in the new technological scenarios for labour regulation (Lo Faro, ed. 2023) and revisiting the regulation of the right to strike (Novitz, Fitzpatrick and Vogt 2025).

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