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“I Shall Divide and Subdivide Power”: The Fiduciary Conception of Sovereignty in Francisco Pi y Margall’s Republican Federal Project

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The fiduciary conception of political power that the republican tradition adopted in its struggle against absolutism was dissolving during the late eighteenth century and the nineteenth. However, in the mid-nineteenth century, some attempts appeared that represent a reemergence of the fiduciary democratic (or proto-democratic) scheme. One of them was the case of Spanish federalism and its greatest exponent, Francisco Pi y Margall. This article shows that the core of Pimargalian federal republican thought is based on a fiduciary conception of sovereignty, which is grounded in a recovery of the language of revolutionary natural law. By arguing that the fiduciary principle applied not only to his concept of public authority, but also to his comprehensive proposal for the federal reorganization of the state, this article contributes to a better understanding of the specific contribution of Pi’s work and to contemporary discussions on the foundations and scope of republicanism, federalism, and fiduciary relationships.

Introduction

In the modern world, the republican tradition, in its struggle against absolutism, successfully reconciled sovereignty with liberty. It achieved this by conceiving the free people as the principal and the constituted political power as their agent, which could only act on behalf, and for the benefit, of the former. In the late eighteenth century and the nineteenth, this fiduciary conception of political power was besieged by reactionary forces that sought to dilute its democratic potential. In our view, it is illuminating to approach nineteenth-century European political dynamics again through the fiduciary interpretive framework, as it contributes to a better understanding of how nineteenth-century republicanism, federalism, and socialism took up concerns and theoretical formulations inherited from the emancipatory revolutionary struggles of the two previous centuries.¹

¹On the disregard of nineteenth-century republican politics in the new history of political thought carried out since the 1970s see Alex Gourevitch, *From Slavery to the Cooperative Commonwealth: Labor and Republican Liberty in the Nineteenth Century* (New York, 2015), 9.

In this sense, taking advantage of the proliferation of studies on fiduciary relationships in recent decades in the fields of law (both private and public law), economics, and political philosophy—which have shed new light on possible historical continuities and discontinuities, as well as on the cross-influences between different domains²—we propose to address the case of nineteenth-century Spanish federalism. We consider that the theoretical plurality of this federalism, its enormous diffusion among the popular classes, and its proposal for institutional transformation, are clearly linked to the rich tradition of the democratic—or proto-democratic—fiduciary conception of political power. In our view, this exercise can illuminate aspects that have often been overlooked due to the dominance of interpretations that, at worst, have taken an ahistorical approach to Spanish federalism or, at best, are based on a reductionist historical-materialist conception.

A paradigmatic figure of this Spanish federal republican movement in the nineteenth century is Francisco Pi y Margall (1824–1901), who has been considered its main theorist,³ so it seems appropriate to focus our attention on his contributions, which will require a previous exercise of historical and conceptual reconstruction. During the reign of Isabella II (1833–68) and the first years of the so-called Sexenio Democrático (Democratic Sexennium) (1868–74), he became an outstanding figure of the democratic-republican political culture and a defender of social reform, individual rights, popular and plebeian participation in the democratic revolution, and the construction of a federal republic. The political prominence he acquired in the elaboration and dissemination of a critique of the limitations of the liberal revolution and his concern for the social question have led later researchers to recognize him as one of the most relevant personalities of the socialist democracy of the nineteenth century.⁴ Moreover, apart from his theoretical contributions, Pi's political-institutional practice made him one of the first and most determined promoters of the formation of a Spanish democratic legality based on pluralism.⁵

Although in recent decades much research has been published on Spanish historical republicanism,⁶ Pi's work in particular has been mostly analyzed in two ways

²Evan J. Criddle, Evan Fox-Decent, Andrew S. Gold, Sung Hui Kim, and Paul B. Miller, eds., *Fiduciary Government* (Cambridge, 2018); Evan Fox-Decent, *Sovereignty's Promise: The State as a Fiduciary* (Oxford, 2011); Andrew S. Gold and Paul B. Miller, eds., *Philosophical Foundations of Fiduciary Law* (Oxford, 2014).

³C. A. M. Hennessy, *The Federal Republic in Spain: Pi y Margall and the Federal Republican Movement, 1868–74* (Oxford, 1962), 246–7.

⁴Antonio Eiras Roel, “La democracia socialista del ochocientos español,” *Revista de Estudios Políticos* 109 (1960), 131–58.

⁵Román Miguel González, “Francisco Pi y Margall (1824–1901): La construcción de la Democracia republicana socialista y de la Legalidad democrática españolas,” in Rafael Serrano García, ed., *Figuras de La Gloriosa: Aproximación biográfica al sexenio democrático* (Valladolid, 2006), 93–108, at 105–6.

⁶Ángel Duarte, “Los significados del republicanismo histórico,” in Nicolas Berjoan, Eduardo Higuera Castañeda, and Sergio Sánchez Collantes, eds., *El republicanismo en el espacio ibérico contemporáneo: Recorridos y perspectivas* (Madrid, 2021), 9–25; Manuel Suárez Cortina, “El republicanismo en la España liberal (1820–1931): Una aproximación historiográfica,” *Bulletin d'histoire contemporaine de l'Espagne* 46 (2011), 11–42.

that obscure some fundamental aspects.⁷ On the one hand, the prevalence of the interpretation carried out in the 1960s and 1970s consolidated a reductionist historical-materialist “interpretive conjuncture” that emphasized the “utopian” and “petty bourgeois” character of Pimargalian federalism.⁸ This led to disregarding the relations between republicanism and popular sectors and to undervaluing the transformative political-social possibilities contained in Pi’s federal project.⁹ On the other hand, the ahistorical approach from the fields of legal, philosophical, and political-theoretical studies focused mainly on highlighting the conceptual contradictions between Pi’s two greatest works, *La reacción y la revolución* (Reaction and Revolution) and *Las nacionalidades* (Nationalities). This approach neglected examination of the relevance of the author’s political thought being indexed in specific social and linguistic contexts, and grasping it as a response to other discourses, to correlations of power within political parties, to the understanding of the social reality of the moment, and so forth.¹⁰ In both cases, fundamental aspects of Pi’s thought, such as his fiduciary conception of political power and his natural-law assumptions, have been omitted. We consider that the rediscovery of these elements can be useful both for a better comprehension of the specific contribution of his work and for contemporary discussions on the foundations and scope of republicanism and federalism.

In this vein, we will now try to show that the core of Pimargalian federal republican thought is based on a fiduciary conception of sovereignty. The recovery of the language of natural law that Pi, together with other republicans, made in the 1850s helped to differentiate the social-political program of democracy from the rest of liberal political culture and, in fact, consolidated a notion of public representation that was highly demanding in institutional terms—i.e. by preventing the existence of agents invested with the power of domination. Nevertheless, the fiduciary principle in Pi applied not only to the concept of public authority, but also to his comprehensive proposal for the federal reorganization of the state, insofar as it rested on a pact whose ultimate aim was

⁷This does not prevent us from recognizing that there are biographical and conceptual approaches that do not suffer from such biases, such as those by Pere Gabriel, “Francisco Pi i Margall: Imágenes de un federalismo popular militante en España,” in Manuel Pérez Ledesma and Isabel Burdiel, eds., *Liberales eminentes* (Madrid, 2008), 277–319; Guido Levi, “Pi i Margall y el federalismo español del siglo XIX,” *Sistema* 112 (1993), 103–16; Miguel González, “Francisco Pi y Margall (1824–1901).”

⁸The expression comes from Suzanne Desan, *The Family on Trial in Revolutionary France* (Berkeley, 2004), 10.

⁹See, for instance, Antoni Jutglar, *Federalismo y Revolución: Las ideas sociales de Pi y Margall* (Barcelona, 1966); Jutglar, *Pi y Margall y el federalismo español*, 2 vols. (Madrid, 1975); Juan Trias Vejarano, “Pi y Margall: Radicalismo burgués y reformismo social,” in Francisco Pi y Margall, *Pensamiento social*, ed. Juan Trias Vejarano (Madrid, 1968), 9–80; Gumersindo Trujillo, *Introducción al federalismo español (ideología y fórmulas constitucionales)* (Madrid, 1967).

¹⁰See, for instance, José Luis Abellán, *Historia crítica del pensamiento español IV: Liberalismo y romanticismo (1808–1874)* (Madrid, 1984), 581–600; Jorge Cagiao y Conde, *Tres maneras de entender el federalismo: Pi y Margall, Salmerón y Almirall: La teoría de la federación en la España del siglo XIX* (Madrid, 2014), 36–95; Ramón Máiz, *Nacionalismo y federalismo: Una aproximación desde la teoría política* (Madrid, 2019), 318–61; Marta Postigo, “Federalism and the Spanish First Democratic Republic,” *Sociology and Anthropology* 5/11 (2017), 977–84; Antonio Rivera García, “La idea federal en Pi y Margall,” *Araucaria* 2/4 (2000), 113–41; José Luis Villacañas, “La idea federal en España,” in Manuel Chust, ed., *Federalismo y cuestión federal en España* (Castelló de la Plana, 2004), 115–59.

the division and subdivision of political power. To make the case for both hypotheses, we will first offer some background on the relationship between fiduciary language and natural law in the historically existing republican tradition, and then use various bibliographical and newspaper sources to demonstrate the republican fiduciary nature of the work of this eminent nineteenth-century tribune of socialist democracy.

I

In recent years, there has been an upsurge of legal, economic, and philosophical research on the conceptual and normative nature of fiduciary relationships, and especially on the fiduciary foundations of civil government.¹¹ In this sense, the “republican revival” that has been taking place since the end of the last century in the philosophy and history of political ideas has highlighted the importance of the principle of fiduciary government within the neo-Roman tradition.¹² A fiduciary conception of political power is one that limits the powers of government insofar as it assimilates them to what is known in the sphere of private law as a trust: a legal and ethical relationship in which one agent is entrusted with the responsibility to act on behalf of another, the principal, and for the benefit of the latter or a third party (the beneficiary). Since this relationship is informationally asymmetric, various institutional safeguards are usually included that allow the principal to restrict the agent’s ability to act in its own interest and even to unilaterally terminate the relationship on the sole ground of a loss of trust.

Applied to public law, the idea that the relationship between the people, on the one hand, and the political authority, on the other, is the same as that between a trustor and his trustee has been recurrent in different republicanism. All of them have theorized institutional designs that seek to guarantee the enjoyment of political freedom, understood as the absence of arbitrary interference by third parties, be they other individuals or, particularly, the state. Thus it is no coincidence that the republican tradition has been characterized by the discussion of numerous mechanisms of accountability and citizen participation, such as the eligibility and revocability of public officers, the limitation of mandates and salaries, and the introduction of referendums and consultations.¹³ However, fiduciary relationships have had very different materializations depending on the nature of the bond, the sociohistorical context, and the normative intention behind them.

Historically, there are important precedents for fiduciary relationships in the Hammurabian, Jewish, and Islamic codifications, but especially in classical Rome—consider, for example, the optimate Cicero, for whom the administration of public affairs is analogous to the guardianship (*tutela*) of private Roman law, i.e. that

¹¹On the advantages and limits of the fiduciary principle itself for philosophical–political reflection and contemporary political practice see Jordi Mundó, “Fiduciary relationships,” *Current Sociology* 73/2 (2025), 192–208.

¹²Philip Pettit, *Republicanism: A Theory of Freedom and Government* (Oxford, 1997), 8–9. For the neo-Roman “revival” see Cass R. Sunstein, “Beyond the Republican Revival,” *Yale Law Journal* 97/8 (1988), 1539–90.

¹³Mundó, “Fiduciary Relationships,” 193–6.

it “must be conducted for the benefit of those entrusted to one’s care, not of those to whom it is entrusted.”¹⁴ Nevertheless, the transposition of the fiduciary principle to the political world occurred essentially at the same time as the emergence of the modern state and the creation of a body of civil servants, autonomous and separate from civil society. During this period, several intellectual currents framed the relationship between the people and their rulers in fiduciary terms; however, this does not imply that these relationships were necessarily democratic. Early modern Western political thought—ranging from monarchical absolutism to corporatist theories of resistance, such as those proposed by the French Monarchomachs or Scottish Calvinists—usually employed fiduciary language to justify nonconsensual and non-popular political authority. This usage cannot be overlooked or dismissed as mere rhetoric, especially when such language intertwines with theology and portrays the people or trustor as legally incapable.¹⁵

Thomas Hobbes’s conception of authority is a good example of this. As stated by Evan Fox-Decent, the conceptual problem Hobbes sought to answer was how the state, as an abstract and artificial construct, can be conceived as a person who represents and acts on behalf of precisely those persons subject to its powers.¹⁶ According to his interpretation, what links the sovereign to the people is trust, since Hobbes describes “the office of the sovereign” as “the end for which he was trusted with the sovereign power, namely, the procuration of the safety of the people.”¹⁷ So, using fiduciary language, Hobbes would argue that the sovereign is entrusted with the commonwealth’s peace and security, while the subject is entrusted with life and liberty. So long as the sovereign fulfils the obligation that arises from this trust by ruling in accordance with the principles of legal order, the subject has an obligation to obey the law. But the political authority thus constituted does not actually require the consent of the people, nor does it enable the people to demand accountability, since the sovereign arrogates to himself the unilateral right to act in the interests of another, the beneficiary (the subjects).

Modern republicanism also used fiduciary structures to conceptualize political authority, but in an anti-absolutist, popular, and even proto-democratic way. While ancient republicanism primarily focused on dismantling the Pope’s political-spiritual imperial power or dissolving political authority within civil life, the construction of modern European states in the sixteenth and seventeenth centuries transformed the republican discourse. In opposition to absolutist claims, republicanism proposed to treat citizens not as minors under guardianship, but as free persons in their own right (*sui iuris*), who entrust (never alienate) part of their liberty to the constitution of a

¹⁴M. Tullius Cicero, *De Officiis: With an English Translation*, ed. Walter Miller (Cambridge, MA, 1913), Bk 1, §85, 87.

¹⁵David Guerrero, “Looking for Democracy in Fiduciary Government: Historical Notes on an Unsettled Relationship (ca. 1520–1650),” *Daimon: Revista Internacional de Filosofía* 81 (2020), 19–34, at 20–21; Jordi Mundó, “Poder político fiduciario y soberanía popular: Libertad política, confianza y revolución en la filosofía política de Locke,” *Daimon: Revista Internacional de Filosofía* 81 (2020), 35–50, at 36.

¹⁶Fox-Decent, *Sovereignty’s Promise*, 1–22.

¹⁷Thomas Hobbes, *Leviathan: With Selected Variants from the Latin Edition of 1668* (1651), ed. Edwin Curley (Indianapolis, 1994), Part 2, Ch. 30, §1, 219.

political power that is subject to the end of the common good.¹⁸ Therefore the goal was to control the state civilly, republicanizing it to ensure the exercise of political freedom in the face of those who considered such exercise either impossible or undesirable.¹⁹

The anti-absolutist proposal for the civilization or fiduciarization of the state found its main driving force in the political philosophy of John Locke. In his *Two Treatises of Government*, conceived as a response to the Exclusion Crisis (1678–81), Locke used the fiduciary principle to theorize the constitution of political society after the abandonment of the state of nature: people, naturally free, renounce exercising political power by themselves, for which they institute a civil government, formed by a legislature fiducially superior to the executive, which is based on the trust granted by the citizens. For Locke, the laws enacted by this power must be in line with the public good, its members must be subject to them, and they cannot be modified without the consent of most of the representatives.²⁰ In this sense, the Lockean fiduciary agreement also sets limits to the despotic drift of delegated power: hence, if the people “find the Legislative act contrary to the trust reposed in them,” and “the Legislative being only a Fiduciary Power to act for certain ends,” then in the people resides a “Supreme Power” that allows them to remove or alter the civil government itself.²¹ Although the use of fiduciary structures was commonplace in the English political context of the mid-seventeenth century,²² the originality of Locke’s approach in the *Two Treatises* lay precisely in the affirmation of popular sovereignty, recognizing in the people the capacity to control and even rebel against constituted government.²³ To that end, he grounded this new fiduciary conception of sovereignty on a reformulation of revolutionary natural-law philosophy.

While the tradition of *ius naturale* is extensive and informs numerous political-religious controversies—most importantly the one between Francisco de Vitoria and Bartolomé de las Casas on the one hand, and Ginés de Sepúlveda on the other, over whether the Native Americans were slaves by nature or equal in rights to the European

¹⁸ As it did with fiduciary structures, the republican discourse also incorporated other concepts from private law, such as “emancipation.” Before its modern interpretation, emancipation was a key institution in *ius commune*. It referred to an act in which a father released his son from his authority, as indicated by the etymology of the term, *ex manu capere* (“to no longer hold in the hands”). However, from the mid-eighteenth century onwards, the concept was adapted into *ius gentium*, equating nations with free and independent individuals who had been emancipated. This modern usage became widespread in the constitutions of the United States and the Hispanic Atlantic states. Consequently, with its associations of freedom and independence, the idea of emancipation was integrated into republican political culture and applied to all aspects of individuals’ lives—political, social, economic, and religious. José María Portillo, *Una historia atlántica de los orígenes de la nación y el Estado: España y las Españas en el siglo XIX* (Madrid, 2022), 39–51.

¹⁹ Antoni Domènech, “Droit, droit naturel et tradition républicaine moderne,” in Marc Belissa, Yannick Bosc, and Florence Gauthier, eds., *Républicanismes et droit naturel: Des humanistes aux révolutions des droits de l’homme et du citoyen* (Paris, 2009), 17–30, at 18–19.

²⁰ Mundó, “Poder político fiduciario y soberanía popular,” 42.

²¹ John Locke, *Two Treatises of Government* (1689), ed. Peter Laslett (Cambridge, 1988), Bk 2, §149, 367.

²² See, for instance, the protest written by Leveller Richard Overton in collaboration with William Walwyn, “A remonstrance of many thousand citizens” (1646), in Andrew Sharp, ed., *The English Levellers* (Cambridge, 1998), 33–53. On the influence of Leveller radicalism on Lockean political philosophy see Richard Ashcraft, *Revolutionary Politics and Locke’s Two Treatises of Government* (Princeton, 1986).

²³ Jordi Mundó, “La constitución fiduciaria de la libertad política (Por qué son importantes las coyunturas interpretativas en la filosofía política),” *Isegoría* 57 (2017), 433–54, at 442–6.

conquerors—its modern conception, detached from theology and morality from the sixteenth and seventeenth centuries onwards, was based on the idea that what is proper to humankind is freedom.²⁴ Therefore a significant part of the republican tradition of the eighteenth century, beyond the obvious historical-contextual differences, used radicalized versions of natural-law language to defend normatively that every person has “natural” freedom or rights before his entry into political society; that, as long as human beings are sociable, this freedom is reciprocal, i.e. that all individuals in society are naturally equal; that no political power instituted by those same individuals, regardless of its support, can violate these liberties; and that, if that power does so, any person has the natural right to resist such tyrannical oppression and even to modify the basis of political authority.²⁵

The French Revolution was the zenith of modern natural-law theory. The Declaration of the Rights of Man and of the Citizen, both of 1789 and of 1793, as well as the failed Robespierrean Declaration of Rights project, were all institutional designs that proclaimed, before the very constitution of political society, the natural, imprescriptible, and unalienable liberties of humanity.²⁶ In doing so, they extended citizenship to the whole population, so that being universal, the recognition of human rights necessarily implied the affirmation of popular sovereignty. The correspondence between natural rights and the fiduciary conception of sovereignty, despite internal contradictions and major political disputes between the different revolutionary factions, was a sort of common sense from 1789 to Thermidor.²⁷ For example, for

²⁴Florence Gauthier, *Triomphe et mort de la révolution des droits de l'homme et du citoyen (1789–1795–1802)* (Paris, 2014), 28–9. The first traces of the language of natural law can be found in the jurisprudence of the twelfth century, when especially in Bologna there was a recovery of the ancient Roman legal corpus, and the law of the Church was codified in the so-called *Decretum Gratiani*. See Brian Tierney, *The Idea of Natural Rights: Studies on Natural Rights, Natural Law and Church Law, 1150–1625* (Atlanta, 1997).

²⁵The existence of a “radical” current of modern natural law—opposed to “conservative” ones—has been established by Richard Tuck, *Natural Rights Theories: Their Origin and Development* (Cambridge, 1979). The cases of Mably, Smith, Kant, and Jefferson have been respectively worked on by Marc Belissa, “La place du droit naturel chez Mably: Éléments de débat,” *Corpus: Revue de philosophie* 64 (2013), 111–27; David Casassas, “Adam Smith’s Republican Moment: Lessons for Today’s Emancipatory Thought,” *Economic Thought* 2/2 (2013), 1–19; María Julia Bertomeu, “Las raíces republicanas del mundo moderno: En torno a Kant,” in María Julia Bertomeu, Antoni Domènech, and Andrés de Francisco, eds., *Republicanism y democracia* (Buenos Aires, 2004), 123–42, at 133–5; Bru Laín, “Del derecho natural al pacto fiduciario: Gobierno y propiedad en la economía política republicana,” *Isegoría* 62 (2020), 9–34, at 13–21.

²⁶It is well known that Robespierre considered the right to exist natural, so society is bound to provide every human being with the necessary means for his development. In Robespierrean language, this meant that political power had the capacity to intervene and modify existing property relations in order to guarantee the proclaimed rights. See Yannick Bosc, *Le peuple souverain et la démocratie: Politique de Robespierre* (Paris, 2019), 156–60. The fact that the exercise of political freedom is inseparable from access to a set of material resources, especially property, is something that neither Pi y Margall nor all historical republicanism, whether democratic or not, were unaware of. See Antoni Domènech and Daniel Raventós, “Property and Republican Freedom: An Institutional Approach to Basic Income,” *Basic Income Studies* 2/2 (2007), 1–8, at 2–4. However, in these pages we will not develop this connection between freedom and property—a connection that is fundamental to fully understanding Pimargalian republicanism.

²⁷Pablo Scotto, “Soberanía popular y concepción fiduciaria de los representantes públicos en Maximilien Robespierre,” *Daimon: Revista Internacional de Filosofía* 81 (2020), 83–98, at 84.

Robespierre, who was the most radical exponent of these principles, the members of the legislature were mere “mandatories” who could not be described as “representatives,” since “sovereignty cannot be represented” or “alienated.” In Article 14 of his Declaration, he referred to government as the “work” and “property” of the people, and to public officers as their “commissaries.”²⁸

In general terms, what derives from this fiduciary understanding of sovereignty is an idea of active and vigilant citizenship against the possible corruption into which the authorities could fall. It is true that this conception may still be nondemocratic in the modern sense—i.e. with a very small, exclusive body of citizens—but what makes radical republicanism politically suggestive, by universalizing citizenship through natural-law language, is the integration of fiduciary accounts of government to design democratic republican institutions. In other words, reducing the gap between state and society, civilizing the former to limit an *imperium* that, by definition, can arbitrarily interfere with individual and collective freedoms. In any case, despite the existence of numerous historical and philosophical examples that connect republicanism and natural law in a robust way, it is important to be aware that not all of the republican tradition was based on natural law; that not all natural-law philosophy was republican, much less democratic; and that there were also different conceptions of natural law itself, e.g. that of the eighteenth-century French physiocrats, who understood the law of nature as a physics, not a metaphysics.²⁹ Together with its supposedly abstract character or its promotion of an atomistic society congruent with capitalist markets, this is one of the reasons why the very normative neo-republican tradition of Pocock, Skinner, and Pettit has dismissed the revolutionary natural-law philosophy.³⁰

But the case of Pimargalian political-theoretical work is even more blatant. Although many of his commentators acknowledge that the young Pi defended a “radical individualist rationalism”—meaning a natural-law doctrine, though its genealogy is not explored in any case—“actually he ends up falling into the nets of that state nationalism, of that idea of national sovereignty and of the nation as an organic whole, thus alien to the will of individuals.”³¹ Or, despite the fact that “Spanish federalism gathers the heritage of enlightened political rationalism,” the Pimargalian theory of the “individualist basis had been denounced since German idealism, and could hardly be invoked without insurmountable paradoxes.”³² Hence most of the interpretations that have been made of this aspect of Pi’s work tend to end up dismissing it as a purely theoretical “distant ideal”³³ that is not present in the bulk of his writings or, alternatively,

²⁸ Maximilien Robespierre, *Oeuvres complètes de Maximilien Robespierre*, ed. Marc Bouloiseau, Georges Lefebvre, Jean Dautry, and Albert Soboul, vol. 9 (Paris, 1957), 466, 569.

²⁹ On the notion of natural law underlying French physiocracy see Florence Gauthier, “Political Economy in the Eighteenth Century: Popular or Despotic? The Physiocrats against the Right to Existence,” *Economic Thought* 4/1 (2015), 47–66, at 51–3.

³⁰ David Guerrero and Julio Martínez-Cava, “Between Tyranny and Self-Interest: Why Neo-republicanism Disregards Natural Rights,” *Theoria* 69/171 (2022), 140–71; Christopher Hamel, “Pourquoi les néo-républicains refusent-ils la thèse des droits naturels? Un examen critique de John Pocock à Philip Pettit,” *Corpus: Revue de philosophie* 64 (2013), 129–48.

³¹ Cagiao y Conde, *Tres maneras de entender el federalismo*, 53, 56.

³² Villacañas, “La idea federal en España,” 121, 123.

³³ Trias, “Pi y Margall,” 45–7.

typically qualifying him as a sort of “reformist anarchist.”³⁴ Nevertheless, let us look at this matter in a little more detail.

II

Nineteenth-century Spanish republicanism did not arise in isolation; it mainly emerged from early liberalism, which had significant emancipatory potential.³⁵ However, the context of the Napoleonic invasion and the interplay between various political currents meant that the central political document of this liberalism, the Cádiz Constitution of 1812, included conflicting elements. Some interpretations suggest that this foundational text incorporated several aspects of the culture and institutions of the old imperial Catholic monarchy. In this sense, it preserved corporatist forms of social organization, such as the *fueros* and other special statutes. Additionally, it maintained a jurisdictional understanding of political power, which did not explicitly define the competencies of governmental and administrative bodies. Finally, while it recognized individuals as subjects of rights—e.g. freedom, security, and property—it did so only as part of a larger organic entity, the Spanish nation, which was defined as inherently Catholic.³⁶

The relationship between liberalism and Catholicism matters because it played a crucial role in shaping a Spanish national identity. According to José María Portillo, adherence to the Catholic faith was a necessary condition for being recognized as a member of the national community and, consequently, as a citizen. In this context, the acknowledgment of individual rights was grounded in a prior (religious) identity rather than in a universal and egalitarian understanding of citizenship.³⁷ Therefore it is not surprising that much of the liberal political culture—at least until 1869—advocated for religious intolerance as a means to ensure political and moral stability, and relied on the Catholic clergy to instill liberal values in citizens.³⁸

Nevertheless, it is also worth noting that the intellectual foundations of early liberalism also draw from the language of revolutionary natural law. Joaquín Varela Suanzes-Carpegna has pointed out that much of the constitutional thought of the Cádiz

³⁴Trujillo, *Introducción al federalismo español*, 97. We are not saying that there is no basis to sustain these interpretations in the Pimargalian hermeneutic itself. Pi's self-definition of his work as “*atheist* in religion, *anarchist* in politics” is well known, an idea that he reiterated in other mature and even posthumously published writings. See Francisco Pi y Margall, *La reacción y la revolución: Estudios políticos y sociales* (Madrid, 1854), 200; Pi y Margall, *Las luchas de nuestros días: Primeros diálogos* (Madrid, 1890), 357–61; Pi y Margall, *Cartas íntimas* (Madrid, 1911), 37–9, 43–5, 49–52. These interpretations have also been helped by the numerous hagiographic comments made by prominent leaders of the Spanish anarchist movement, as well as by the reprinting of some of his supposedly more anarchistic books, such as *La reacción y la revolución*.

³⁵María Cruz Romeo, “La cultura política del progresismo: Las utopías liberales, una herencia en discusión,” *Berceo* 139 (2000), 9–30, at 18–20.

³⁶Bartolomé Clavero, *Constitucionalismo colonial: Oeconomía de Europa, Constitución de Cádiz y más acá* (Madrid, 2016), 179–81; Carlos Garriga and Marta Lorente, *Cádiz, 1812: La Constitución jurisdiccional* (Madrid, 2007), 23–36.

³⁷José María Portillo, “*Corpus Mysticum* and *Cuerpo de Nación*: Modernity and the End of a Catholic Empire,” *Rechtsgeschichte/Legal History* 26 (2018), 313–24, at 314.

³⁸Gregorio Alonso, “Corporations, Subjects, and Citizens: The Peculiar Modernity of Early Hispanic Liberalism,” *Journal of Iberian and Latin American Studies* 22/1 (2016), 7–22, at 14.

liberals was greatly influenced by the natural-law doctrine that had arrived on the Iberian peninsula a few years earlier and had irrigated the most radical tendencies of American and French republicanism in the late eighteenth century. Although the circumstances surrounding the constituent process prevented the full expression of the language of rights—the Constitution of 1812 did not include a declaration of rights like the Virginia Declaration of Rights from 1776 or the French Declarations from 1789 and 1793—two fundamental principles did resonate within the constitutional text: national or popular sovereignty and the division of powers. The former was reflected in a model of quasi-universal indirect suffrage, while the latter was demonstrated through strict limitations placed on the powers of the monarch and his ministers.³⁹

As a continuation of the most radical ideas of Cádiz liberalism, a large part of this project materialized in that testing “laboratory” which was the commonly named Trienio Liberal (Liberal Triennium) (1820–23).⁴⁰ Explicitly breaking with the *ancien régime*, during these three years the liberals adopted a universalist and egalitarian model based on the radical affirmation of national sovereignty, the extension of freedom of expression and association, and the abolition of feudal privileges. In the political language of the time, these ideas would allow progress to be made towards the construction of “a classless society.” The spread of this discourse led to a liberal politicization of the artisan and shopkeeper classes, as well as a democratization of the public sphere through the centers of municipal power, patriotic societies, and the national militia.⁴¹

However, in response to what were perceived as the “excesses” of the Trienio, the new liberalism that took shape during the 1830s, both moderate and progressive, constituted itself in open opposition to the “abstract” and “metaphysical” language of natural rights. In the words of the Moderate Antonio Alcalá Galiano, the “school of the rights of man” could not be the basis of any society and of any government. Additionally, for the sake of securing order, Alcalá Galiano recognized that “in certain circumstances” the authority had the power to vary or suspend any individual right or part of the Constitution that was necessary.⁴² Like European “doctrinaire liberalism”⁴³ in the first half of the nineteenth century, the members of the Spanish Moderate Party abandoned any reference to the principles of national sovereignty and natural law. Especially after 1845—when a conservative constitution was approved that sanctioned the postrevolutionary liberal project on the interests of the “middle classes” and a socioeconomic situation in which market strategies and private property prevailed—they focused their

³⁹ Joaquín Varela Suanzes-Carpegna, “La Constitución de Cádiz y el liberalismo español del siglo XIX,” *Revista de las Cortes Generales* 10 (1987), 27–109, at 33–8.

⁴⁰ Isabel Burdiel, “Myths of Failure, Myths of Success: New Perspectives on Nineteenth-Century Spanish Liberalism,” *Journal of Modern History* 70 (1998), 892–912, at 901.

⁴¹ Isabel Burdiel and María Cruz Romeo, “Old and New Liberalism: The Making of the Liberal Revolution, 1808–1844,” *Bulletin of Hispanic Studies* 75/5 (1998), 65–80, at 73.

⁴² Quoted in María Cruz Romeo, “Lenguaje y política del nuevo liberalismo: Moderados y progresistas, 1834–1845,” *Ayer* 29 (1998), 37–62, at 43–4.

⁴³ The basic reference on this question continues to be the work by Luis Díez del Corral, *El liberalismo doctrinario* (Madrid, 1945). On the interpretation that the doctrinaire liberals *à la* Guizot, Thiers, Thierry, etc. made of the French Revolution and natural-law language see also Eric Hobsbawm, *Echoes of the Marseillaise: Two Centuries Look Back on the French Revolution* (London, 1990).

discourse on the preexistence of the nation and the supremacy of a state closed to the demands of the population.

But the rejection of natural law after the experience of 1820–23 did not only affect the Moderates, since the emerging Progressive Party also distanced itself from the original Cádiz liberalism. From the 1830s onwards, the “advanced” liberals adopted institutional postulates that had previously been considered heretical, such as bicameralism, the monarch’s power of veto, or his right to dissolve the parliament (Cortes). Moreover, they went on to defend a reduced set of political rights subordinated to the laws and the Constitution—property, individual security, and limited civil liberties, such as freedom of the press—and a concept of national sovereignty that, while differing from the shared sovereignty advocated by the Moderate Party, was kept from any interpretation in a radical sense. Thus, in the 1837 Constitution, the principle of national sovereignty only appeared in the preamble, but not in the articles themselves, and it avoided any expectation of social emancipation expressed through universal suffrage.⁴⁴ This implied that the representatives or delegates of the nation had wide discretion to limit sovereignty, according to the Progressive Alonso Navarro, in what “we grant it in this area.”⁴⁵

Therefore, individual autonomy played no relevant role in the conceptual universe of postrevolutionary liberalism in the mid-nineteenth century, since the language of natural law was considered problematic due to its universal, egalitarian, and pluralistic nature. It could lead to “the odious tyranny of the turbulent masses,” so it became necessary to subordinate the individual to a higher social entity, the nation, to protect him from his own will. In this sense, the dogma of national sovereignty was hegemonized by the progressive liberal discourse, dispossessing it of the emancipatory horizon present in original liberalism by limiting suffrage to only the most capable citizens rather than viewing it as an inherent right.⁴⁶ This was explicitly recognized by the Progressive Patricio de la Escosura: “because I fear, because I have seen, because I know that the excesses of freedom are the ones that do the most harm to it, and that is why I want limits.”⁴⁷ Such was the historical importance of this idea of sovereignty that, even when in 1849 the left wing of the progressive parliamentary group split off and formed what later became known as the Democratic Party—initially named “Progressive Democratic”—it established national sovereignty as its fundamental political principle, albeit exercised through universal (male) suffrage.⁴⁸

However, during the 1850s, a doctrinal mutation took place within democracy. Faced with the clear reality that the rhetoric of national sovereignty had served to

⁴⁴Romeo, “Lenguaje y política del nuevo liberalismo.”

⁴⁵Quoted in María Sierra, María Antonia Peña, and Rafael Zurita, *Elegidos y elegibles: La representación parlamentaria en la cultura del liberalismo* (Madrid, 2013), 319.

⁴⁶María Sierra, “La sociedad es antes que el individuo: El liberalismo español frente a los peligros del individualismo,” *Alcores* 7 (2009), 63–84, at 67–9.

⁴⁷*Diario de Sesiones de las Cortes Constituyentes* 303 (31 Jan. 1856), 10430.

⁴⁸The founding “Manifiesto” of the Democratic Party can be consulted in Miguel Artola, *Partidos y programas políticos, 1808–1936*, 2 vols. (Madrid, 1991), 2: 37–45. On its origins see Demetrio Castro, “The Left: From Liberalism to Democracy,” in José Álvarez Junco and Adrian Shubert, eds., *Spanish History since 1808* (London, 2000), 79–90; Antonio Eiras Roel, *El Partido Demócrata Español (1849–1873): Los primeros demócratas* (Madrid, 2015).

overturn the civil liberties of broad social groups, various democratic republican publicists opposed a new vindication of individual sovereignty. So, for example, José Ordax Avelilla and Francisco García López argued in the parliament of the so-called Bienio Progresista (Progressive Biennium) (1854–6) that, “before national sovereignty,” the Constitution should include “individual sovereignty, individual rights,” which derived “from the natural state of man.” For these Democrats, not to do so would imply “recognizing in politics the principle of absolutism.” Similar ideas were held at the time by Emilio Castelar, for whom “above the sovereignty of the people is the sovereignty of law, reason, conscience, the will of man, which are of divine origin”; by Fernando Garrido, who claimed that “individual sovereignty, the principle of all law,” was the basis of the federal republic; and by Sixto Cámara’s newspaper *La Soberanía Nacional*, which stated that “the Democratic Party believes in and proclaims individual sovereignty.”⁴⁹ But the person who did most to lay the foundations of the conceptual framework of this new democratic discourse was undoubtedly Pi y Margall.

In *La reacción y la revolución*, Pi asserted the need to proclaim a declaration of rights prior to the Constitution, since “to consign our rights is to consign our sovereignty, and to consign individual sovereignty is to consign that of the peoples.”⁵⁰ Otherwise, the fundamental norm would not only be incomplete, but also lack a basis. By referring to the above-mentioned Robespierrean Declaration project, Pi argued that this natural right is “absolute, universal, unalienable and imprescriptible,” so that “any arbitrary limitation, any attack on it, deserves the qualification of a crime.”⁵¹ In other words, every individual is equally free, and no rule established by society or the state can restrict these “laws of nature,”⁵² even though all liberal constitutions set up until then had either not established, or had directly violated, what for Pi were the fundamental political freedoms. These were freedom of the press, assembly, association, religion, and work, which could be synthesized in just two: those of expression and application of thought.⁵³ These being restricted or suppressed, Pi explicitly advocated insurrection, “a holy right,” because “moral law has its limit only in itself; no external law can limit it.”⁵⁴ The promotion of the right of insurrection when fundamental liberties were violated was a constant in Pi’s thought. He had been able to consolidate this conception of the right of rebellion through the translation and critical reading of the Jesuit Juan de Mariana, who “admitted the principle” of popular sovereignty; “declared kings to

⁴⁹ *Diario de Sesiones de las Cortes Constituyentes* 75 (3 Feb. 1855), 1864; *Diario de Sesiones de las Cortes Constituyentes* 67 (25 Jan. 1855), 1620; Emilio Castelar, *La fórmula del progreso* (Madrid, 1858), 111; Fernando Garrido, *La república democrática federal universal* (1855) (Barcelona, 1868), 56; *La Soberanía Nacional* 240 (30 Aug. 1855). On the shift in democratic discourse during the 1850s see Florencia Peyrou, “A Great Family of Sovereign Men: Democratic Discourse in Nineteenth-Century Spain,” *European History Quarterly* 43/2 (2013), 235–56, at 244–7.

⁵⁰ Pi y Margall, *La reacción y la revolución*, 158.

⁵¹ *Ibid.*, 159. Despite his professed sympathy, Pi did not refrain from criticizing the Jacobins and the democracy of 1793. A few months after writing these lines, he said of the “terror” that “never have the rights of man been so loudly proclaimed, never so violated.” Francisco Pi y Margall, “El terror,” in *La Razón: Revista política, filosófica y literaria*, vol. 1 (Madrid, 1856), 49–57, at 49–50.

⁵² Francisco Pi y Margall, “La soberanía nacional y el partido progresista,” *La Discusión* 611 (21 Feb. 1858).

⁵³ Pi y Margall, *La reacción y la revolución*, 214.

⁵⁴ *Ibid.*, 185, 197.

be inferior to society”; and “went as far as he could go, he legitimized insurrection and regicide.”⁵⁵

In contrast to the belief in national sovereignty held by Progressives and some Democrats, Pi proposed what he called his “democratic dogma,” which was grounded on the post-Hegelian concept of *homo sibi deus*. For Pi, every individual is sovereign over himself, as long as he is self-directed in his inner life. If such sovereignty is unlimited in a pre-social sense, then any (political) power exerted over the individual without his free consent is deemed tyrannical. As a result, the Pimargalian project suggested that the basis of political authority should transition to a contractual foundation, as “between two sovereigns there is no place for anything but pacts.”⁵⁶ Given this demanding philosophical and political premise, Pi faced the challenge of how to create a society without appointing agents who hold the power to dominate:

Power, today, must be reduced to its smallest possible expression. Does centralization give it strength? I must decentralize it. Is it given by arms? I must take them away. Is it given by the religious principle and the present economic organization? I must destroy it and transform it. Between the monarchy and the republic, I shall opt for the republic; between the unitary republic and the federative republic, I shall opt for the federative republic; between the federative republic by provinces or by social categories, I shall opt for that of the categories. Since I cannot dispense with the voting system, I will universalize suffrage; since I cannot dispense with supreme magistracies, I will declare them as far as possible revocable. I shall divide and subdivide power, I shall mobilize it, and I shall surely destroy it.⁵⁷

In a radical interpretation of the principles of natural law, Pi logically denied the national sovereignty on which not only the discourse of the Progressives but also the Spanish liberal revolution itself had been based. For the author, “the sovereignty of the people is a pure fiction, it does not exist,” and he only admitted it as a “necessary” fiction due to the impossibility of abolishing political authority by decree and the need to address and resolve collective interests.⁵⁸ Through this argument, Pi was neither laying the foundations of a kind of proto-anarchism nor subsuming the individual into any totalizing national community, as Trujillo and Cagiao y Conde have respectively pointed out. In a different interpretation, Román Miguel González has argued that Pi was inaugurating a new democratic socialist political culture separate from the old Spanish republican socialist discourse grounded in an alleged “Rousseauian–Jacobin” general will.⁵⁹ There is some validity to this perspective. Although early republicanism in the 1840s contained numerous calls for universal suffrage, the normative defense of political and civil rights before the constituted power is a notable feature of the new

⁵⁵Francisco Pi y Margall, “Discurso preliminar,” in Juan de Mariana, *Obras del padre Juan de Mariana*, ed. Francisco Pi y Margall (Madrid, 1854), v–xlix, at xxxvii.

⁵⁶Pi y Margall, *La reacción y la revolución*, 203.

⁵⁷*Ibid.*, 205.

⁵⁸*Ibid.*, 208–10.

⁵⁹Román Miguel González, *La pasión revolucionaria: Culturas políticas republicanas y movilización popular en la España del siglo XIX* (Madrid, 2007), 184–7.

democratic republican vocabulary that emerged in the second half of the nineteenth century.⁶⁰

Nevertheless, the evidence that Pi played a fundamental role in the ideological redefinition of democracy does not justify Miguel González's assertion that this change represented a break among the republican groups.⁶¹ On the contrary: the recovery of the revolutionary tradition of natural law allowed Pi to adequately formulate the doctrine of the *whole* Democratic Party to differentiate it from a Progressive Party which, in its governmental action after coming to power in 1854, had kept the franchise restricted and limitations on press and association freedoms.⁶² In fact, when, years later, a possible alliance between the Democrats and the "pure" (advanced) faction of progressivism was discussed, Pi—and with him increasingly majority sectors of the party—strongly opposed it, because in his opinion the Progressives were "adversaries" of democracy insofar as they denied "the Spanish people the ability to use their rights" and indefinitely postponed the "fundamental conditions of true freedom."⁶³

This conceptual change within the democratic discourse informed a conception of constituted political power that was highly demanding in institutional terms. Although it has been said that public representation does not occupy a prominent place in Pimargalian thought because of the centrality of this notion of the autonomous, self-governed citizen who cannot be hetero-governed,⁶⁴ Pi did not deny in any case the effective existence of public officers even if the principles of democracy were dominant. What he did was to structure them in a fiduciary way; that is, as mandataries or delegates, ultimately, of the sovereign individuals. To that end, Pi opposed the liberal division of powers with a republican unity of powers

in a [parliamentary] chamber elected by the people as a whole. It thus overthrows the monarchy, and with it all executive power; it thus overthrows the senate, and with it all privilege and all aristocracy. It seeks to limit the power itself, and declares beyond the reach of the chamber the freedom to express and apply thought; the interests of the individual, the municipality and the province; the form of expression of sovereignty, to which it owes its existence; everything that does not ostensibly and directly affect the security or progress of the nation as a whole.⁶⁵

⁶⁰ Florencia Peyrou, *El republicanismo popular en España, 1840–1843* (Cádiz, 2002), 123–4.

⁶¹ On the similarities, rather than the unbridgeable differences, between the old "Jacobin socialist" proposals of Cámara and Garrido and the new "democratic socialist" ones of Pi y Margall see Florencia Peyrou, *Tribunos del pueblo: Demócratas y republicanos durante el reinado de Isabel II* (Madrid, 2008), 421–2.

⁶² Pi y Margall, *La reacción y la revolución*, 32–3.

⁶³ *La Discusión* 721 (1 July 1858). When, at the end of 1863, the possibility of a coalition was again strongly raised, Pi published an open letter in which he considered "impossible" the alliance between the Progressives and the Democrats, and encouraged the latter to enlist the support of "the lowest classes of the people," explaining that it was the Progressive Party that had kept them in "perpetual disinheritance and perpetual tutelage." *La Discusión* 2422 (13 Nov. 1863). During the following weeks, the signs of adhesion of democratic militants to Pi's position were very numerous.

⁶⁴ Román Miguel González, "Las concepciones de la representación política en la democracia republicana española del siglo XIX," *Ayer* 61 (2006), 139–62, at 157–62.

⁶⁵ Pi y Margall, *La reacción y la revolución*, 222.

This “qualitative” unity that Pi advocated meant that the pacts or contracts between autonomous citizens were institutionalized in a unicameral parliament, which concentrated all the power to choose fiduciarily those agents in charge of executing the laws. For the author, the division that the liberals, especially the Progressives, had promoted between the executive and legislative powers—and, within the latter, between a lower house elected by part of the people and an aristocratic upper house—was a source of all kinds of discord and conflict. It made it impossible for the representatives of the people to control the agents of government and a supposedly irresponsible monarch who retained important powers, such as appointing ministers, imposing vetoes on certain laws, or dissolving and convening the chambers.⁶⁶

Pi explicitly used fiduciary language to criticize that, under the doctrinaire liberal regime, government officials “invested with the people’s trust” looked after “their own particular interests more than those of their principals [*comitentes*].”⁶⁷ Therefore he conceived that “ministers are only administrators, not government,” and considered that “the object of every truly revolutionary publicist” was none other than to weaken the public authorities, “in order to destroy them tomorrow.” The aim was to ensure permanent, individualized supervision, insofar as “each minister is elected and appointed by the Assembly; not, as today, appointed and quasi-elected by its president.” And, evidently, the fiduciary clause by which the chamber “may at any moment revoke them” in the case of a manifest loss of confidence was maintained, thus tending towards an identification between people and government; that is, towards the aforementioned civilization of the state.⁶⁸

Pi’s incorporation of the principles of revolutionary natural law constituted the main novelty within the democratic republican discourse of that time. It reaffirmed the importance of the individual in light of the harmful consequences that national sovereignty, as defended by postrevolutionary liberals and some Democrats, could bring: the perilous “tyranny of the majority” that Tocqueville highlighted in relation to the United States.⁶⁹ In fact, this was precisely what had happened in the Second French

⁶⁶Francisco Pi y Margall, “El Senado,” *La Discusión* 858 (8 Dec. 1858); Pi y Margall, “La división de poderes,” *La Discusión* 861 (12 Dec. 1858). It should be emphasized that Pi gradually abandoned this radical defense of unicameralism and replaced it with symmetrical bicameralism. In *Las nacionalidades* he declared himself in favor of the division of the legislative power into two assemblies, because, although it seemed to him “absurd in unitary nations,” it was “rational and convenient in federal ones.” See Francisco Pi y Margall, *Las nacionalidades* (Madrid, 1877), 182. Thus the constitutional project that federalists adopted in 1883 was based on a bicameral organization of the legislative power. See Asamblea Federal, *Constitución de la República Democrática Federal Española* (Zaragoza, 1883), 11.

⁶⁷*La Asociación* 73 (29 May 1856).

⁶⁸Pi y Margall, *La reacción y la revolución*, 147–50, 268–70. Compared to the current vocabulary usage of the time, it is noteworthy that Pi enhances the concept of “principal” by incorporating fiduciary elements of trust and revocability in the commissioning of electors. According to Ramón Joaquín Domínguez’s *Diccionario nacional* (National Dictionary), the term “principal” (*comitente*) could be interpreted in a narrow sense as one “who commissions” (*que diputa*). This perspective reflected a limited view, suggesting that the principal merely grants “the highest number of votes authorized by law to their respective candidates to represent the country in the national congress.” Ramón Joaquín Domínguez, *Diccionario nacional o Gran diccionario clásico de la lengua española*, 2 vols. (Madrid, 1847), 1: 626.

⁶⁹Alexis de Tocqueville, *Democracy in America: Historical–Critical Edition of De la démocratie en Amérique* (1835–40), ed. Eduardo Nolla (Indianapolis, 2010), 410–15. On the reception of Tocqueville’s

Republic, which had become an empire through universal suffrage, so the recovery of natural law was closely related to avoiding the illiberal potential of a narrowly majoritarian conception of democracy.⁷⁰

The exacerbated defense of the autonomous individual in this early Pimargalian work has led many authors to consider that the young Pi denied the existence of collective political bodies and, consequently, to establish his affiliation with anarchism.⁷¹ However, while criticizing any kind of power or any notion of collective sovereignty in the pages of *La reacción y la revolución* and other interventions in the press, the author sent a letter to the newspapers *La Europa* and *El Tribuno* in which he wrote that the main difference between hegemonic liberalism and democracy was that the former defended non-absolute freedom and limited national sovereignty, while the latter considered “individual freedom absolute, and the sovereignty of the people absolute.”⁷² Even in the very pages of this supposedly individualistic work, Pi stated the “true natural entities to be the state, the province, the town.”⁷³ In this sense, he intends to be congruent in upholding both a prior individual sovereignty and a derived collective sovereignty that can be politically organized by means of pacts that always respect the autonomy and rights of citizens—i.e., a normative defense of a relational (absolute) political individualism, not an atomistic one, and the existence of composite political ontologies.⁷⁴ The innovative way Pi proposed to articulate both assumptions, which is what in his view can best guarantee freedom as non-domination, is through the “quantitative” division of powers itself; that is, through the republican federation.⁷⁵

III

Regarding the formation of democratic discourse in nineteenth-century Spain, it has been pointed out that, at least until 1868, the concepts of “confederation,” “federation” and “decentralization” were used interchangeably in the press and in the writings of the

work and of *Democracy in America* among Spanish republicans in the mid-nineteenth century see José A. Piqueras, *El federalismo: La libertad protegida, la convivencia pactada* (Madrid, 2014), 296.

⁷⁰Pierre Rosanvallon, *Good Government: Democracy beyond Elections* (Cambridge, MA, 2018), 111–12.

⁷¹See, for instance, Jutglar, *Pi y Margall y el federalismo español*; Trujillo, *Introducción al federalismo español*.

⁷²*La Europa* 74 (31 Oct. 1854); *El Tribuno* 525 (4 Nov. 1854). Pi also upheld similar ideas in a previous letter sent to *El Constitucional* 101 (30 Oct. 1854).

⁷³Pi y Margall, *La reacción y la revolución*, 276.

⁷⁴It should be noted that he would make this compatibility even more explicit over the years. During the controversy between individualists and socialists that took place within the Democratic Party in the 1860s, he claimed to correct some of his former positions, particularly that of having “denied the reality of collective beings,” a principle on the basis of which he had come “to deny even the sovereignty of the people.” He then categorically affirmed the existence of “two autonomies: that of the individual and that of the human collectivity; both equally legitimate, both equally necessary.” See Francisco Pi y Margall, “Las cartas del señor Rivero,” *La Discusión* 2585 (26 May 1864); Pi y Margall, “Las libertades económicas,” *La Discusión* 2549 (13 April 1864). With all the precautions that should be taken in the face of what is a very partial hagiography of Pi’s work, Antoni Rovira i Virgili stated that Pi, at the end of his life, did not want to republish *La reacción y la revolución* because “he would have to amend so many things in that book today that he would have to do it almost anew.” Antoni Rovira i Virgili, “Pròleg,” in Francisco Pi y Margall, *La qüestió de Catalunya: Escrits i discursos*, ed. Antoni Rovira i Virgili (Barcelona, 1913), v–xlvii, at xl.

⁷⁵Pi y Margall, *La reacción y la revolución*, 232.

republicans.⁷⁶ Although they generally described themselves as “federal,” many republican Democrats were in favor of a unitary system, though deeply decentralized, in which the recognition of the different subunits of government did not prevent them from being hierarchically subordinated to the nation-state. In this sense, the term “administrative decentralization” gained ground in defining the Democratic Party’s proposals, as was the case in the manifestos of 1849, 1854, and 1865.⁷⁷ For example, Castelar pointed out that towns “must administer their local interests by themselves and for themselves,” and he explicitly mentioned local roads, municipal schools, and the ornamentation of the streets.⁷⁸ Similarly, although Rafael María Baralt and Nemesio Fernández Cuesta wrote that “it must be the federative form, monarchical or republican, which the peoples of our peninsula will adopt by common accord,” they insisted on maintaining a “sinewy, nourished, and vigorous” politically centralized government, because the formulation and execution of laws could not be divided as they depended on a single sovereignty, that of the nation.⁷⁹

According to Florencia Peyrou, what the Democrats were doing was to take up the distinction that the Italian philosopher and historian Carlo Cattaneo had established between federation and decentralization: while the former implied a bottom-up organization of power, ensuring each associated entity its corresponding political competencies, the latter consisted of a progressive delegation of powers from the central power to hierarchically inferior bodies.⁸⁰ This was the reading that many of them, again following Tocqueville, made of American federalism, which was synthesized with the motto of “governmental centralization” and “administrative decentralization.”⁸¹ Nevertheless, this administrative decentralization meant, for democratic sectors, that each territorial unit should organize itself autonomously, without being accountable to the bodies immediately above it. And also that citizens should be able to elect their local and provincial authorities, to give effect to the republican ideal of participatory and vigilant citizenship in a large state, and to guarantee freedom, insofar as the new

⁷⁶José A. Piqueras, “Detrás de la política: República y federación en el proceso revolucionario español,” in José A. Piqueras and Manuel Chust, eds., *Republicanos y repúblicas en España* (Madrid, 1996), 1–43, at 38. It is indicative of this mixture that the word “federation” appeared in the *Diccionario de la lengua española* (Dictionary of the Spanish Language) from its third edition, in 1791, equated with “confederation,” which was defined only as “alliance, league, union between some people,” particularly “that which is made between princes or republics.” It was not until the ninth edition in 1843 that the term “federative” was introduced with a definition related to “the system of several states, each governed by its own laws, which are subject in certain cases and circumstances to the decisions of a central government.” This delay in recognizing the distinct meaning of “federation” is notable, especially given that, during this period, the existence of the United States and several newly independent American countries was evident, many of which were attempting to establish federal systems.

⁷⁷Those of 1854 and 1865, in Artola, *Partidos y programas políticos*, 2, 52–4, 74–8.

⁷⁸Castelar, *La fórmula del progreso*, 112.

⁷⁹Rafael María Baralt and Nemesio Fernández Cuesta, *Programas políticos*, 2 vols. (Madrid, 1849), 2: 170, 181.

⁸⁰Florencia Peyrou, “Federalism as an ‘Imagined Community’: 19th-Century Spanish Republicanism and Democracy,” in Juan Pan-Montojo and Frederik Pedersen, eds., *Communities in European History: Representations, Jurisdictions, Conflicts* (Pisa, 2007), 85–108, at 95; Peyrou, *Tribunos del pueblo*, 149.

⁸¹Tocqueville, *Democracy in America*, 142–51.

distribution of power would resist any attempt to develop a tyrannical centralized government.⁸² In conclusion, it was a proposal for territorial organization that gave lower entities—mainly the municipalities and provinces—important *administrative* powers, such as tax collection or the care of public works and local educational institutions, but denied their *political* or sovereign capacity to approve or modify a certain set of laws.

While we agree that this notion of federalism may have been shared among much of the republican democratic world during the reign of Isabella II, we believe that it cannot be equally applied to the case of Pi y Margall, in contrast to what other reputed specialists of the Spanish nineteenth century have argued.⁸³ Indeed, in Pi's famous speech in defense of the republican federation in the parliament of 1869, he explicitly differentiated between decentralization, "which is an arbitrary thing as a result of the whim of the state" that "can exist today and disappear tomorrow," and the federation that was then defended by most of the republicans. The latter was conceived as a "bottom-up" pact through which "the state, instead of limiting the powers of the provinces, is in turn limited, without ceasing in its functions, by the provinces themselves."⁸⁴ Significantly, these ideas are already present in Pi y Margall's early articulations, such as *La reacción y la revolución*, and it was the author's reformulation of democratic discourse in the 1850s that contributed to the spread of a different concept of federalism. In its recognition of the sovereignty of individuals and of the successive collective bodies they constituted, the Pimargalian federal project sought to guarantee the freedom and autonomy of each entity on the basis of an organization that rested largely on the fiduciary principle. Moreover, this semantic redefinition did not only occur within Spanish republicanism, but reached a European dimension and articulated the social movements that were the protagonists of the popular revolutions of the 1870s (e.g. the Paris Commune of 1871 and the Spanish cantonal revolution of 1873).⁸⁵

For Pi, republican federation was the best way to implement the Krausist principle of "unity in variety." He proposed not only administrative "decentralization," which in his view was already "recommended by economics, history, the need for harmony and unity, logic," but "a federal system like that of North America." To this end, the author

would divide the [Iberian] Peninsula, no longer into fourteen provinces, but into fourteen states. Each state would administer its interests and develop them as it saw fit. It would have its [parliamentary] chamber and its ministers, its special constitution, its laws. It would appoint and pay its own employees, impose its

⁸²Peyrou, "Federalism as an 'Imagined Community,'" 99.

⁸³Fernando Martínez López, "Los modelos federales en la España de 1820 a 1873," in Justo Beramendi and Xosé Ramón Veiga, eds., *Poder y territorio en la España del siglo XIX: De las Cortes de Cádiz a la Restauración* (Santiago de Compostela, 2014), 219–51, at 231; Florencia Peyrou, *La Primera República: Auge y destrucción de una experiencia democrática* (Madrid, 2023), 50.

⁸⁴*Diario de Sesiones de las Cortes Constituyentes* 77 (19 May 1869), 2096.

⁸⁵Román Miguel González, "El concepto de *federalismo* en la democracia republicana española del siglo XIX," in Eloy Arias Castañón, ed., *¡Viva la República Federal! Andalucía y el republicanismo federal* (Seville, 2017), 83–96, at 86–8. Regarding the relationship between the Paris Commune and the cantonal revolution see Jeanne Moisand, "'Cantonards' et 'communeux': La révolution cantonale espagnole dans l'ombre de la Commune (1873)," *Revue d'histoire du XIXe siècle* 63 (2021), 57–74.

own taxes, organize its internal force as it pleased. It would follow its industrial system and would solve the great economic and social problems in its own way.⁸⁶

For Pi, a state that has its constitution, its laws, its legislature, and its executive, which through them can solve the social and economic problems that arise in its sphere of interests, cannot be defined as a body that has been arbitrarily granted a set of competencies. It must be understood as a sovereign, autonomous subject that can organize itself internally as it sees fit. It should be noted that there would be areas in which the states would be barred from making decisions, such as “the bases of political law, universal suffrage, absolute freedom to express and apply thought, the sovereignty of the individual.” This limitation is not due to the fact that they have not received the corresponding powers from the central government, but because, as elements of natural law, they are “beyond the reach of both the provinces and the Diet”—in other words, of the regional and federal parliamentary chambers.⁸⁷ This type of reflection, together with the always-mentioned virtues of federation, was recurrent throughout Pimargalian work. From the early articles written during the Bienio period, in which Pi advocated decentralization “not only in administration but also in politics,” since he sought to establish “the municipality and the province as political entities,”⁸⁸ to works of greater intellectual maturity such as *Las nacionalidades*, in which he stressed the need to recognize the sovereignty of the lower organizations in order to constitute the federation. According to the republican leader, the federation

comes from the Latin name *foedus*, which means pact, alliance. For it to exist, it is indispensable that those who enter it have the capacity to bind themselves and thus be free, that is to say, *sui iuris*. Therefore federation necessarily supposes equal and perfect autonomy in the towns to constitute provinces; equal and perfect autonomy in the provinces to constitute nations; equal and perfect autonomy in the nations to constitute empires or republics, Latin, European, continental. Without this there is no federation possible: apart from this there is only the unitary principle. The towns must constitute the province and the provinces the nation: this is the system.⁸⁹

The idea that federalism is based on the recognition of more than one sovereignty or a simultaneous overlapping of two (or more) political powers, which is echoed in the Pimargalian concept of “multiple nations,”⁹⁰ comes from the theory of the sixteenth- and seventeenth-century Calvinist Johannes Althusius—dual sovereignty was not institutionally established until 1787, when the Constitution of the United States was adopted. One of the ways in which Althusius’s thought was incorporated into Pimargalian federalism was through the Huguenot Pierre Jurieu. Considered the precursor of the theory of the social contract, Jurieu maintains in his only two books

⁸⁶Pi y Margall, *La reacción y la revolución*, 276–7.

⁸⁷*Ibid.*, 226.

⁸⁸Francisco Pi y Margall, “¿Cuál debe ser nuestra forma de gobierno?”, in *La Razón: Revista política, filosófica y literaria*, vol. 1 (Madrid, 1856), 97–106, at 104–6.

⁸⁹Pi y Margall, *Las nacionalidades*, 299.

⁹⁰*Ibid.*, 126.

the theses of popular sovereignty, of the natural and imprescriptible rights of the people, and of the collective right of resistance against the prince who has infringed the fundamental laws.⁹¹ His influence on Pi is undeniable: in *La reacción y la revolución*, he refers to Jurieu as “the Luther of politics,” since he was the first to oppose “to the sovereignty of divine right the sovereignty of the people, to the idea of government that of contract, to authority that of will, the reason of each man.”⁹²

This notion of “shared sovereignties” is crucial to fully understand the Pimargalian federal theory and the limitation of the political powers of the central authority. Stretching the concept of “pact,” which he soon labeled “synallagmatic” and which he had already used to conceptualize the formation of a limited legislative power by the citizens, Pi insisted that federation could only be achieved by virtue of an “alliance” that would delimit from the bottom up the powers that each of the territorial orders should have. Each of these entities would be sovereign—Pi uses the expression “autonomous”—to organize itself and make decisions within the sphere of its respective moral and material interests. Furthermore, Pi considered that the establishment of the federation under the principle of the pact would not lead to the disintegration of the Spanish nation, since its unity rested on links that went beyond the state model itself, such as a shared history, civil relations or, particularly, common economic interests.⁹³

One example Pi used to illustrate his concept of a federal pact was the Basque Country and Navarre, as both regions represented an exception to the processes of territorial, fiscal, and military centralization that characterized the formation of the Spanish liberal state. Following the end of the First Carlist War, a pact was established to preserve the special status of the Basque and Navarre provinces. This status, sanctioned by the Law of Confirmation of Fueros in 1839 and the Ley Paccionada (Compromise Act) in 1841, created a system of co-sovereignty.⁹⁴ The regional institutions retained significant administrative, educational, religious, and military powers, which allowed the Basque liberals to envision the possibility of constructing a sub-state.⁹⁵ Simultaneously, some republicans viewed this status as a foundation for federal development. Consequently, Pi focused on studying the Basque people, as their governance, which was distinct from that of other regions in Spain and had a unique history, could provide “interesting observations for the publicist and the philosopher.”⁹⁶

⁹¹Rivera García, “La idea federal en Pi y Margall,” 116, 127.

⁹²Pi y Margall, *La reacción y la revolución*, 221. For a critical position on Jurieu’s elaboration of “the dogma of national sovereignty” see Francisco Pi y Margall, “La democracia y el principio de la soberanía,” *La Discusión* 830 (5 Nov. 1858). It is very likely that Pi became familiar with Jurieu’s work from reading Pierre-Joseph Proudhon’s highly influential manifesto *General Idea of the Revolution in the Nineteenth Century* (1851) (New York, 1969), 112. Pi had already studied Proudhon in the early 1850s, and referred to him in a letter as “the Hercules of Economics and Politics.” Quoted in Casimir Martí, “L’orientació de Pi i Margall cap al socialisme i la democràcia: La correspondència entre Pi i Margall i el duc de Solferino (1846–1865),” *Recerques: Història, economia, cultura* 3 (1974), 155–97, at 189.

⁹³Pi y Margall, *Las nacionalidades*, 294–301.

⁹⁴Miguel Herrero de Miñón, “Los derechos históricos y el principio pacticio,” *Ivs Fvgit* 15 (2007–8), 35–54, at 47–50.

⁹⁵Coro Rubio, “La construcción de la identidad vasca (siglo XIX),” *Historia Contemporánea* 18 (1999), 405–16.

⁹⁶“Costumbres vascas,” *El Museo Universal* 2 (30 Jan. 1857).

However, this understanding of the federal pact—which was not an ideal Rousseauian social contract but constitutionally established—was one of the main points of conflict within republicanism already during the Sexenio, but above all in the reorganization of the latter that took place during the early years of the monarchical Restauración (Restoration) (1874–1931). The importance of this controversy was so significant that it resulted in a rift between Pi and old federal republican leaders, such as Figueras and Garrido. Ergo, when the third edition of *Las nacionalidades* was published in 1882, Pi y Margall felt it necessary to include a lengthy appendix titled “El pacto” (The Pact), in which he summarized his views on the matter. For Pi, those colleagues who believed that federation could rest solely on the autonomy of provinces or regions were inconsistent, since for its formalization it was not possible to conceive of a general and permanent alliance without the free consent of its parties. The dilemma, Pi argued, was clear: either pact or force. Or “the spontaneous and solemn consent of our regions or provinces to confederate for all common ends under the conditions stipulated and written in a federal Constitution,” or to embrace the idea that the Spanish provinces “remain united by the sole bond of force.”⁹⁷ In this sense, what lay at the heart of the matter was the tendency of various currents, not only republican but also self-styled federal, to consider federation, once again, as mere arbitrary decentralization:

Those who, while calling themselves federal, deny the pact, are undoubtedly committing a grave contradiction. To deny the pact is to superimpose the autonomy of the nation on that of the province and the municipality, when in the light of our doctrines every human being in his inner life is equally autonomous. For no other reason than that these dissidents, whether they want to or not, will all fall into what they once fought so hard against: the national sovereignty of the Progressive Party. They must recognize, despite themselves, that the nation is the source of all powers, in other words, the unitary principle. Outside the pact, one can be a decentralizer, not a federalist; and that is why every day I affirm myself more and more in the pact.⁹⁸

It is in the very construction of the federation that we can identify the Pimargalian federal pact as a fiduciary pact. According to Pi, there are “common interests” between the different collectivities which cannot be satisfied by themselves. Thus these principals—first the municipalities, then the provinces—“created or consented to another power which would also be the regulator and organ of common interests”; that is, an agent—first the province, then the nation, and so on until reaching a hypothetical “universal federation.”⁹⁹ Its limits would be set by the same bodies which, through their

⁹⁷ Francisco Pi y Margall, “El pacto,” in *Las nacionalidades* (Madrid, 1882), 435–46, at 444–5.

⁹⁸ *Ibid.*, 445–6.

⁹⁹ This universal cosmopolitan republic included very different institutional designs. For example, one of the key events of nineteenth-century Spain was the imperial crisis that continually pitted the old metropolis against political developments in the American countries. The republican Democrats were not indifferent to this process of de-imperialization and often supported an Ibero-American transnational project. See Florencia Peyrou, “Des États Unis d’Europe à la Démocratie Latine: Les projets transnationaux des républicains espagnols au XIXe siècle,” *Cahiers de la Méditerranée* 99 (2019), 101–12. In particular, Pi y Margall advocated for a confederation of the “Latin race,” envisioning an egalitarian political alliance between the nations of Southern Europe and the Latin American states. Over time, he became more radical in his views;

aggregation, had constituted it. This would guarantee, in the author's view, the freedom and independence of the will of each entity.¹⁰⁰

To ensure that the interests of the principals are safeguarded, the federal pact can be viewed as a constitutional contract. This contract defines the obligations of the parties involved, specifying the powers assigned to each political entity within the federation, as well as the areas where they lack authority.¹⁰¹ Thus Pimargalian federalism aims to establish institutional safeguards that guarantee the loyalty of the confederate partners, since the core principle of his federalism is that the federal government must operate according to what is outlined in the pact, as all its powers are clearly defined in the Constitution.¹⁰² If municipalities or provinces believed that their "superior" body has overstepped its authority or acted contrary to shared interests, they would have access to legal mechanisms instituted by the pact itself—ranging from the courts to the Senate, which would serve as a chamber of territorial representation. These mechanisms would allow for the expression of dissent and, if necessary, facilitate the modification of federal power or the terms of the pact itself.

At this point, only one last aspect of the fiduciary principle remains to be addressed. Since it has been pointed out that there could be a republican theory of the right of secession,¹⁰³ it may be argued that if a territorial entity, in its sovereign capacity, considers that it no longer trusts the federation, it could withdraw from the federation and proclaim its independence. This is equivalent to the fiduciary clause by which the principal can unilaterally interrupt the relationship with its agent on the sole ground of a loss of trust. Beyond the fact that this extreme may not necessarily be present in all types of fiduciary relationship,¹⁰⁴ it is a commonplace among specialists to indicate that it is not possible to find reasons that justify a supposed right of self-determination in Pimargalian thought. From dissimilar positions, this is how both Máiz and Cagiao y Conde analyze it. For Máiz, Pi's "plurinational federalism" would be incompatible with secession since, according to him, leaving the federation was only possible if the contracting parties decided by mutual agreement to end the pact. For Cagiao, the monist idea of nation that Pi supposedly defended would make him close the door to the hard case of self-determination. This would impose on the secessionist state a vision of its

towards the end of his life, as it became clear that reforming the Spanish empire into a federal republic was not feasible, he adopted an anti-imperialist position. In contrast to the strong nationalistic and militaristic rhetoric of the 1890s, Pi opposed wars and publicly supported the independence of Cuba and the Philippines. See Xavier Granell and Jaume Montés, "'Un obrer de la intel·ligència': Francesc Pi i Margall en la revolució democràtica," in Francesc Pi i Margall, *L'hidra del federalisme*, ed. Xavier Granell and Jaume Montés (Barcelona, 2024), 5–75, at 30–31, 68–71.

¹⁰⁰ Pi y Margall, *Las nacionalidades*, 295–6.

¹⁰¹ It is important to note that fiduciary agreements involving multiple principals—such as Pi's federalism—often require a contract-like pact. Lionel D. Smith, "Contract, Consent, and Fiduciary Relationships," in Paul B. Miller and Andrew S. Gold, eds., *Contract, Status, and Fiduciary Law* (Oxford, 2016), 117–38, at 138.

¹⁰² Piqueras, *El federalismo*, 60.

¹⁰³ Miquel Caminal, "Una lectura republicana i federal de l'autodeterminació," *Revista d'Estudis Autònomicos i Federals* 5 (2007), 11–38; Lluís Pérez-Lozano, "Theories of the Right of Secession: A Republican Analysis," *Las Torres de Lucca: Revista Internacional de Filosofía Política* 10/18 (2021), 69–87.

¹⁰⁴ Julio Martínez-Cava, "Gorros fríos en la Guerra Fría: el socialismo republicano de E. P. Thompson" (unpublished Ph.D. thesis, University of Barcelona, Barcelona, 2020), 47.

statehood and political sovereignty which not only it does not need to share, but which also is contradictory to Pi's declared aim of guaranteeing the autonomy and freedom of the parties.¹⁰⁵

Indeed, for Pi, confederations could only be “dissolved by the mutual consent of those who established them, not by that of one or more peoples”—just as with contracts, as long as they were not affected by “any of the vices that invalidate them.”¹⁰⁶ However, it is also true that the principle of the pact was actually based on the possibility that, in the process of forming the federation, the contracting parties might decide *not* to agree. This could lead, as argued by the critical federal currents represented by Figueras or Garrido, to a hypothetical disintegration of Spanish national unity.¹⁰⁷ Nevertheless, Pi expressed the conviction that this was the best way to reorganize the state, no matter how many “perils the realization of its principles may entail.”¹⁰⁸ That is to say, the fact of basing the new federation on the autonomous free will of the parties made it “not even presumable that any region would refuse the pact; but, if there were any, it would be an inconceivable contradiction for us not to respect it.”¹⁰⁹ In short, although this was an eventuality undesired by Pi himself,¹¹⁰ this does not prevent us from identifying his theory of the pact with what we may call a proto-right of self-determination whose consequences have not yet been sufficiently examined.¹¹¹

A significant portion of public-law scholarship on fiduciary relationships tends to dismiss these extreme interpretations. For example, Fox-Decent views fiduciary government as a way to establish strong duties of care—i.e. the fundamental rights of peoples and individuals—without addressing the potential excesses of Lockean political theory, such as the right of rebellion or, in the context of Pi's proposed federal reorganization, the right of self-determination.¹¹² However, Pi y Margall employed fiduciary language for much more radical purposes. His federal project was founded on the idea that all individuals, as well as any collectivities formed by them, should govern themselves freely. In this sense, we believe that by linking sovereignty and democracy conceptually, Pi and federal republicanism not only provided a remarkable alternative to the dominant political, administrative, and territorial structures of the Spanish state in the nineteenth century, but also offer radical democratic institutional applications of fiduciary principles in government.

¹⁰⁵ Máiz, *Nacionalismo y federalismo*, 344, 349; Cagiao y Conde, *Tres maneras de entender el federalismo*, 80–83, 86–7.

¹⁰⁶ Pi y Margall, *Las nacionalidades*, 201.

¹⁰⁷ See, for instance, Fernando Garrido's critical position in “Al lector,” in *La república democrática federal universal* (Madrid, 1881), ix–xxxii, at xv.

¹⁰⁸ Pi y Margall, “El pacto,” 444.

¹⁰⁹ Pi y Margall, *Las luchas de nuestros días*, 207.

¹¹⁰ Francisco Pi y Margall, “Discurso en defensa del periódico *La Unión* ante el Tribunal de Imprenta” (1879), in Pi y Margall, *La Federación*, ed. Pablo Correa y Zafrilla (Madrid, 1880), 157–70, at 167–9.

¹¹¹ On the polemics within federal republicanism after the First Spanish Republic see Xavier Granell and Jaume Montés, “Las huellas de la Cantonal: La polémica entre Francisco Pi y Margall y Fernando Garrido en torno a la federación (1873–1883),” *Sociología Histórica* 13/1 (2024), 44–75.

¹¹² Fox-Decent, *Sovereignty's Promise*, 17.

Conclusions

Throughout this article, we have tried to show that the concept of sovereignty that appears in Francisco Pi y Margall's federal republican thought presents a fiduciary structure. The fiduciary principle informs, first of all, a notion of political representation that is highly demanding in institutional terms, since it uses the language of revolutionary natural law to conceptualize the agents of the executive power as mere administrators of the commonwealth, who can only act with the express consent and under the permanent supervision of a unicameral legislature. At the same time, the legitimacy of this legislative power resides in the delegation of sovereignty made by citizens through universal suffrage, and its powers have as an insurmountable limit the fundamental, unalienable, and imprescriptible rights of individuals, which Pi synthesizes in two: the rights to express and to apply one's thoughts. The introduction of this new notion of individual sovereignty represented an important doctrinal mutation within the democratic movement of that time, and in fact allowed republicans to distance themselves politically from the progressive liberal culture and its dogma of national sovereignty.

Second, the Pimargalian federal-organization proposal also draws on relevant aspects of the fiduciary principle in a way that results in an original contribution to the conceptualization of distributed territorial political power as a fiduciary relationship. On the basis of a congruent extension of individual sovereignty, Pi considers that collective entities are formed from the bottom up through successive acts of delegation of sovereignty, which make it possible to manage common interests, but which also limit the scope of their competence. By attributing political and not just administrative powers to the collective bodies, Pi introduced into the democratic discourse an enriched concept of federalism which, at the height of the Sexenio, was shared by the bulk of his party. However, the radical nature of the Pimargalian federalism pact was not problem-free either. After the defeat of the First Republic and the subsequent reorganization of the republican movement, there were federal leaders who broke away because of the possibility that Pi's federal pact would lead to the disintegration of the Spanish nation. Indeed, although this was an eventuality undesired by the author, Pi assumed as his own the fact that municipalities and provinces would have the capacity *not* to agree, and therefore to become independent of the hypothetical federation. In our opinion, this would thus turn his theory of the pact into a sort of proto-right of self-determination.

Addressing the historical period in which Pi y Margall's republican federalism took shape is crucial to understand the possibility of an alternative path to the construction of the liberal state in Spain. Both the fiduciary conception of sovereignty and the language of revolutionary natural law are two normative elements which, at the time, sought to promote an ideal of active, participatory, and vigilant citizenship regarding the public authorities, as well as to delimit a space of human personality that was not subject to the arbitrariness of the rulers. On the other hand, they were the basis of a federal reorganization of the state which, breaking with the prevailing governmental centralization, recognized the political sovereignty of provinces and municipalities. Most interpretations of Pimargalian political thought have masked much of these contributions. This has been due to a profoundly ahistorical approach to political theory,

which did not analyze Pi's conceptual evolutions in relation to his social–political commitment and his critique of the discourses of postrevolutionary hegemonic liberalism. And yet the contextualist reinterpretation we have proposed also offers tools for the current philosophical–political discussion, insofar as the relations between representatives and the people, the constitutional limitations and guarantees of fundamental rights, or the distribution of territorial power in federal and decentralized states are still major problems of the contemporary world.

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