

## Spain: A unique model of state autonomy

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The federal model established by the Spanish Constitution of 1978 is being widely questioned today. All political parties accept the need to reform the Constitution, although there is no agreement on the scope of the reforms. Some states, in Spain named “Autonomous Communities,” have begun to make changes to their “Statutes of Autonomy,” acts that define the powers and institutions of the constituent entities. Some of these reforms are not only ambitious – especially in Catalonia and in the Basque Country – but also rather controversial.

The Spanish Constitution is unusual in many ways. First, **in spite of not being federal in name, the 1978 Constitution carried out a greater decentralization of political powers than exists in many nominally federal countries.** The overall structure is known as the “State of the Autonomies” or simply as “the State.” The Spanish system has great possibilities for evolution, either through mechanisms that allow changes to the constitutional distribution of powers, or through interpretation of undefined constitutional provisions. The Constitution does not identify any of the Autonomous Communities that constitute the country, nor does it fix their powers, which have been left to subsequent laws. All of these factors justify the assessment that the Spanish model is a “sub-constitutional” model.

Prior to 1978, 40 years of totalitarian dictatorship had solidified the traditional centralism of Spain. However, in that year the country passed from a unitary state to one constituted by seventeen Autonomous Communities, which have significant political, administrative, and financial powers. The adoption of the 1978 Constitution launched the longest period of regional autonomy that Spain has known.

While the practical application of the Constitution, and, in particular, the scope of the powers of the central government, has resulted in extensive autonomy for the Autonomous Communities in quantitative terms, the quality of this autonomy is questionable. The measure of independence is wide, but very thin, and the system has not satisfactorily balanced unity and diversity. Spain is a pluralistic society, having more similarities to the Belgian or the Swiss experience than to the American or the Germanic one. Some territories have a stronger tradition of self-government, with their own language and Civil Law. These communities believe that there is an imposed degree of uniformity they deem excessive, for example, in matters related to local government and public administration.

The greatest degree of asymmetry between the Autonomous Communities occurs in fiscal affairs. Two Autonomous Communities, the Basque Country and Navarre, enjoy financial privileges due to historical reasons. In some other communities - Catalonia for example - fiscal relations are essentially characterized by an imbalance between public responsibilities and financial resources, since the central government controls not only the main sources of income, but also the management of the financial system. The latter is scarcely defined in the Constitution.

The Constitution enumerates the central government's powers, but it does not determine the powers of the Autonomous Communities. These are defined by the Autonomous Communities' Statutes of Autonomy, thereby fulfilling an almost constitutional function, with the only limit being those powers reserved to the State. The number and degree of powers can vary among the Autonomous Communities, although the current level of powers is roughly equal for most of them.

Although the Spanish system is based on the exclusivity of powers, in many cases powers are shared. On some occasions, the central government enacts legislation and the Autonomous Communities are required to develop and execute it. All residual powers belong to the State, although it may transfer or delegate part of its powers to the Autonomous Communities. The lack of definition of some key aspects of the allocation of powers, as well as the shortage of mechanisms promoting institutional relations, has resulted in a great many cases brought before the Constitutional Court.

The current model faces other important challenges. The Autonomous Communities complain that they have very little influence within the central institutions of the State and their decision-making processes. Unfortunately, the Senate has failed to function as a chamber of territorial representation, even though the Constitution formally attributes it that role. Integration into the European Union in 1986 increased the problems derived from this participative deficit. The yielding of sovereignty to European institutions is affecting not only the powers of the State, but also those of the Autonomous Communities. The Communities have no important role in decision-making processes related to European matters, nor do they have direct representation before European institutions.

Globalization has affected the balance of powers in other ways. The exclusive State power in immigration was never considered a problem until it obliged the Autonomous Communities, who are responsible for such services of the welfare-state as health, education, and housing, to assume important political and financial responsibilities in a field in which they have no political authority. A similar situation is occurring in the case of information and communication technologies, growing fields whose political repercussions were not considered by the Constitution. The guarantee and stability of the financing system, as well as the adaptation of the judicial system to the compound structure of the country, are other important problems that have not still been resolved.

The Constitution of 1978 has allowed Spain to pass from a unitary and centralized State to a new arrangement that resembles other federal systems. After a process of consensus-seeking, the result was transcribed into an open and flexible constitutional text. However, developments since then have caused reason for much debate among sectors that have very different interpretations of the system. The current political scene suggests that instead of repairing the "breakdowns" of the system, perhaps Spain will decide to replace it entirely.