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## **The Basque country. Federalism or Independence?**

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### 1. The autonomous communities and the Basque region

The Spanish Constitution of 1978 establishes a system where power is distributed among 17 autonomous communities. It is a hybrid model, that stands mid-way between regional and federal governments. Its ambiguous and complex nature is a constant source of clashes between the federal and community governments, which is particularly intense in the case of the Basque region.

The autonomous system has had very positive effects for the Basque region. The progress made over the years in the recovery of Basque identity has been very important. However, for now, the system has been unable to solve the 'Basque problem', as is clear from the mistrust of the institutional model and its outright rejection by a large part of Basque society.

Today's conflicts in relations between the Basque region and the Spanish government are chiefly, although not exclusively, based on three aspects: (1) the system of distribution of powers; (2) territoriality; (3) the right to self-determination.

### 2. The system of distribution of powers

The Spanish Constitution establishes a very complex and ambiguous system for the distribution of powers. Rather than a list of powers, the Constitution establishes a distribution of functions. As a result, it has become necessary, by patient interpretation and conceptual systematization of constitutional doctrine, to establish a complex typology of functions that can roughly be summarized in five main groups of powers: 'absolute exclusives', 'limited exclusives', 'shared', 'overlapping' and 'indistinct'.

In many areas, the Constitution modifies the list of powers of the autonomous regions with phrases such as 'in the frame of' or 'according to'. The upshot has been that the federal government has established regulations, directives and controls that have led to a real reduction in the powers of the autonomous regions. The regions have very few possibilities for participating in overall federal government activities. The Senate, which is theoretically representative of the different territories is, in fact, dominated by national political parties.

### 3. The problem of territoriality

The Basque region is located geographically in Spanish and French territory. Traditionally, the strategic aspiration of Basque nationalism has been to establish an independent State that covers the whole territory, which has led to major problems that I will touch on later.

There are also problems regarding the territorial boundaries of the Basque region inside Spain. The Autonomy Statute includes the provinces of Alava, Guipuzcoa and Vizcaya in the Basque region, and also Navarra, in the event it decides to join. Basque nationalist political parties are very weak in Navarra and as a result, Navarrese politicians decided not to join the Basque community but to establish their own community instead.

This has caused a problem that is difficult to solve. The decision taken at the time by the Navarrese political parties was perfectly democratic. And although the Constitution has no impediment to Navarra deciding to join the Basque region in future, this depends on the political will of the Navarrese.

### 4. The right to self-determination and the European Union

From the standpoint of Basque nationalists, the main political problem – which largely includes all the rest – is the demand for recognition of the Basque people's right to self-determination. Even though this right could theoretically take the form of very different political options – autonomy, federalism, confederation, independent State, etc. – Basque nationalism has traditionally identified self-determination with an independent national State.

The Spanish Constitution does not permit territorial separation. This is a fundamental and very delicate problem that the autonomous regions have been unable to solve. However, I believe that it could become less virulent in the face of possible solutions that could arise as the final design of the new Europe is being built.

Today's trans-nationalization of all aspects of life is quickly doing away with the classical conceptions of borders, understood as lines of separation, and replacing it with a new concept, understood as a privileged meeting point for international cooperation, pulverizing the classical concept of sovereignty. International relations are no longer the exclusive concern of States, since they now extend to many other institutions and organizations. Outstanding among them are the regional institutions, which are acquiring great importance in this new Europe that is emerging.

In light of all these changes, we must ask what form and content the right to self-determination will take in the 21st century. Can the idea of an independent sovereign State be replaced with one that would permit the Basque region to maintain its own identity within the European Union?

Replacing the call for an independent State with an adequate presence in European institutions appears to be positive and necessary for two reasons: (1) it is in line with the direction in which the world is moving today; (2) this new formula would not imply the separation of Basque society, instead it would imply its inclusion. A policy to include the institutionalized presence of the Basque region in the European Union could easily be adopted by nationalist and non-nationalist political forces, alike.

Therefore, a definitive solution to the 'Basque problem' could be closely linked to the way in which the European Union develops institutionally. Adequate regulation of Basque participation in the process of building Europe could defuse some of the most serious conflicts that exist today.

Other European States, such as Germany, Austria, Belgium, etc. have been capable of solving similar problems through formula adapted to the circumstances in each case. In Germany, where a perfectly symmetrical federalism exists among various homogenous Länder, decisions are channelled through multilateral relations between the government and the Länder. In Belgium, where there are virtually two 'nations' in a single state, relations are bilateral.

In Spain's case, it would be necessary to establish an asymmetrical federal system that would combine multilateralism with certain bilateral relations. It must be kept in mind that the origin of the Spanish autonomous communities is based on the existence of two confluent but very different causes: nationalism and regionalism. Regionalism is a criterion for organizing interests on a territorial basis. Nationalism is something more. The fundamental reason for its existence is the presence of a separate identity, i.e. the presence of a group with common cultural elements whose members have an intense feeling of belonging.

Regionalism and nationalism are based on different logics or principles. Regionalism is based on the logic or principle of organizational efficiency. Nationalism's objective is to demand or guarantee the logic or principle of 'difference'.

The establishment of multilateral or symmetrical relations is indispensable to guarantee efficiency. To guarantee 'difference' it is indispensable to establish bilateral or asymmetrical relations.

Traditionally, nationalism and independence have gone hand-in-hand in modern history. However, from the perspective of the 21st century and a Europe that is geographically united, nation States are undergoing a sweeping process of change that is leading to a gradual shift of power in favour of new supra-national power structures.

The Basque region has two possible alternatives. One, the classical alternative, is to demand an independent State. The second is to demand that infra-national territorial collectives, such as the Basque region, be included alongside States in building the new Europe.

The ultimate objectives of Basque nationalism can be summarized in a single goal: the unification and independence of the Basque region. This objective collides head on with one formal obstacle and several real ones. The formal limitation is the Spanish Constitution of 1978, which is based on Spanish unity. The real obstacles include the refusal of Navarra to join the Basque autonomous community and the territorial division of the Basque region between France and Spain.

The Basque region is split at present into various political divisions (autonomous Basque community, Navarra, French-Basque region). Today, it is impossible to establish a policy to demand the integration of Navarra or the unification of the Spanish and French regions. It is much more appropriate to establish instruments for cooperation intended to solve mutual problems (economic, cultural, technological), based on mutual respect and autonomy.

There has been excessive reliance on political/institutional solutions and social, economic and simple human aspects have been neglected. The creation of a country does not come only from obtaining political power. A social, cultural and economic substrate is also indispensable.