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## The centralism's categorical imperative in the Spanish territorial model

### El centralismo como imperativo categórico en el modelo de organización territorial de España

**Abstract:** The present paper is an approach to a critical reading of the Spanish model of territorial organization, apparently strongly decentralized through Autonomous Communities. This model aims to explain the causal bonds, from history to present times, of the centrifugal movements' strength in a State that never achieved the completion of its identity construction, its *state-building* and least of all, its *nation-building*. Not even with the extreme violence exerted against the national minorities in different non-democratic historical periods. The inability of the predominant political culture in Spain to assume this plurality or plurinationality, especially its elites, involves a radical anti-federalism that seems to be catalyzing powerful political and social independentism movements in some of its territorial peripheries. The data show a substantial increase of independentism in Catalonia or almost the virtual disappearance of one of the great Spanish parties (the People's Party) in Euskadi and also in Catalonia.

**Keywords:** Federalism; Spanish state-building; Spanish anti-federalism; Autonomic State; Antifederalist political culture in Spain; Catalanian independentism.

**Resumen:** Aproximación a una lectura crítica del modelo de organización territorial español, en apariencia fuertemente descentralizado mediante Comunidades Autónomas, que pretende explicar los vínculos causales, desde la historia al presente, para la persistente fortaleza de los movimientos centrífugos existentes en un Estado que nunca logró completar su construcción identitaria, su *state-building* y, mucho menos, su *nation-building*, ni siquiera con la extrema violencia ejercida contra las minorías nacionales en distintos períodos históricos no democráticos. La incapacidad de la cultura política mayoritaria en España, singularmente de sus élites, de asumir esta pluralidad o esta plurinacionalidad, conlleva un radical antifederalismo que parece estar actuando como catalizador de poderosos movimientos políticos y sociales independentistas en varias de sus periferias territoriales, como demuestran los datos aportados de incremento sustancial, en escaso tiempo, del independentismo en Cataluña o la práctica desaparición de uno de los grandes partidos españoles (el Partido Popular) en el País Vasco y también en Cataluña.

**Palabras clave:** Federalismo; construcción del estado español; antifederalismo español; Comunidades Autónomas; política cultural antifederalista española; independentismo catalán.

It is impossible to understand the contradictions of the current Spanish territorial model without appealing, albeit synthetically, to historical precedents established over time, even though some may be considered past. In the second half of the 15th century, the Prince that was probably an inspiration role for Machiavelli, Fernando King of Aragón, defeated the Galician feudal nobility that had previously supported, together with the King of Portugal, Alfonso V, Joanna, the legitimate pretender to the throne of Castile. Joanna lost her rights by the force of arms against her aunt, Isabel, the consort of the King of Aragon. Both would later be known as the Catholic Monarchs. The Senior Chronicler of the Kingdom of Aragón, Jerónimo Zurita (1566), in his great work *Anales de Aragón*, wrote the following in this respect: “At that time they began to tame that land of Galicia, because not only the lords and knights of it but all the people of that nation were against each other very rugged and warriors, and seeing what that passed through the count<sup>1</sup> —who was a great lord in that kingdom— were levelled and reduced to the laws of justice with rigor of punishment” (*Anales de Aragón*, Libro XX, Capítulo XVIII, p. 275). This text would be reinterpreted by the Galician politician and intellectual Castelao as *taming and castration of the Kingdom of Galicia* in his parliamentary speech on the draft Constitution of 1931 (*Discursos parlamentarios* (1931-1933). 1978, p. 15). It had been the first kingdom independent from Muslim power in the Iberian Peninsula and led to the foundation of other kingdoms such as León and Portugal, starting a depersonalisation process and submission to the guidelines of the new Castilian monarchs that would last four centuries (also known as the *Dark Centuries*<sup>2</sup>).

Before 1640, the almighty royal favourite of Phillip IV, the Count-Duke of Olivares, issued the following

famous Memorial for the monarch, the penultimate of the Habsburg dynasty, a real global monarch in his contemporaneity:

Your Worship should know that the most important goal for your Monarchy is to become King of Spain, I mean, your Worship should not be pleased being King of Portugal, of Aragón, of Valencia, Count of Barcelona, but you should work to reduce those Kingdoms that constitute Spain into the style and laws of Castile, without differences. If your Worship achieves this, you would be the most powerful Prince on Earth.

Portuguese and Catalans declared war against him for similar reasons. The latter lost (as well as part of their territory to France) and the former achieved their independence after a long conflict. The Hispanic imperial decadence would be unstoppable and accelerated from this point onwards. One part (Spain) took the name of the entirety (Hispania), what historically had been the Iberian Peninsula<sup>3</sup>.

Years after the succession war due to the Spanish crown vacancy (1700-1713), a new dynasty was established: the Bourbons. They subjected the different kingdoms of the monarchy to the Kingdom of Castile, especially those that supported the other pretender to the throne. The ancestral *fueros*<sup>4</sup> and rights to Valencia, Aragón, Balearic Islands and Catalonia (in general, the old territories of the Kingdom of Aragón) were eliminated, as were their institutions. The use of the Catalan language was prohibited in official documents. Even the University of Barcelona was closed (they were harsher on Catalonia because they struggled until the end of the battle). The Bourbon dynasty intensified the centralising and standardising model that the Austrias had started. I

<sup>1</sup> It refers to the almighty Count of Lemos, Rodrigo Osorio, who caused the kings to move to Galicia when they were in the middle of the war for the taking of Granada, punishing him with a five-year sentence of exile from Galicia. Source: Real Academia de Historia (<http://dbe.rah.es/biografias/43628/rodrigo-osorio>).

<sup>2</sup> Centuries (XVI, XVII, XVIII and a good part of the XIX) in which the Galician language was excluded from written uses and official documents.

<sup>3</sup> The medieval Portuguese philosopher who came to be Pope as John XXI (1276-1277) was formerly known as Petrus Hispanus.

<sup>4</sup> TN: Set of privileges or legal exemptions. This concept can be translated as “charters”, “privileges” or “jurisdictions”. These granted specific competences not recognized in other autonomous communities, most notably, fiscal autonomy.

wrote, metaphorically, that the French were the ones who created Spain. Note the striking resemblance between *the instruction* of Olivares and the Nueva Planta decrees enacted by the new King, Philip V, abolishing the *fueros* of Aragón and Valencia.

Considering having lost the Kingdoms of Aragón and Valencia and all the inhabitants because of the rebellion (...) all the *fueros*, privileges, exemptions and freedoms that they were enjoying (...) and concerning myself with the absolute authority over the Kingdoms of Aragón and Valencia, given the circumstance that they are comprised in the rest of the territories that are legitimately mine in this monarchy, it is possible to add the circumstance of the fair right of conquest that my Arms carried out (...). I have conveniently judged (because of this as well as because of my desire to reduce of all the kingdoms of Spain to the uniformity of the same laws, customs and Courts, being equally governed by the laws of Castile, praiseworthy and acceptable throughout the Universe) to abolish and repeal the aforementioned *fueros*, privileges and customs thus far observed in the Kingdoms of Aragón and Valencia. My will is to reduce these to the laws of Castile and to the customs, practice and form of the government that Castile has and has had in its Courts without any difference.

Aguilera de Prat (2018) points out that it will not be until the Constitution of Cádiz of 1812 that it becomes possible to speak about the Spanish nation in the modern political meaning, with questionable existence of a proper State that was not merely superficial and not a politically disarmed country as stated by Torres del Moral (2018). The Spanish 19th century is broken by three civil wars, the so-called Carlist Wars (1833-40, 1846-49, 1872-76) where mainly Basques and Navarres were confronting the monarchy for different reasons, among them, dynastic issues, but also to preserve their privileges and freedoms (*fueros*) that the 19th century liberalism, excessively

Jacobin, wanted to abolish. As an example, it should be noted that Navarre had its own parliament until 1839, close to the end of the first Carlist War.

The Project of the federal Constitution of 1873 was not carried through because of a successful coup d'état. At the end of this century, Spanish univocal nationalism had a new opportunity to maintain the last oversea territories and this led to the 98 trauma, when Antonio Maura projected some sort of autonomy statutes for Cuba and Puerto Rico in 1893, with the aim of avoiding their definitive independence. Despite the leniency of the texts regarding their level of self-government, the Ministry of Overseas would be accused by the parliamentary opposition of "unpatriotic, drunk, lunatic and furiously crazy" (Piña, 2003, p. 158). The rejection of the peninsular press convinced the Cubans that they could not expect anything from Spain (PIÑA: 160). In 1894, Maura resigned and in 1896, in a parliamentary debate, he would pronounce the following words with bitterness due to the frustration with the entire Spanish political class: "Why have we failed, before, in 1868, with the authoritarian military regime? Why have we failed in 1895 with the prevailing regime? Because we have extraordinarily exaggerated the assimilation, violating natural law, offending reality, creating clothes that did not fit for Cuba" (Piña, 2003, pp. 160-161). If we ignore the historical context and the pompous 19th century language, we would not be surprised to hear a Spanish Prime Minister, in 2017-2018, expressing similar assertions regarding similar main figures. Two years later, Cuba and other colonies gained their independence with the support of the United States. Máximo Gómez, the leader of the Cuban revolt, pointed out that "the reforms that Maura praised could not have avoided the independence of the Antillean colonies but at least could have avoided the drama of war" (Piña, 2003, p. 160).

The regional Catalan, Basque and Galician "*rexurdimentos*"<sup>5</sup> emerged during the change of century,

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<sup>5</sup> TN: The *Rexurdimento* was a period in the history of Galicia during the 19th century. Its central feature was the revitalisation of the Galician language as a vehicle of social and cultural expression. The Galician *Rexurdimento* coincides with the Catalan *Renaixença*.

for example, through inter-provincial associations (the Catalan version was the only one effectively established), always established within the framework of the legal regime. These “renaissance movements” were fought as real threats against state unity and would be eliminated during the last moments of the restorationist regime by the first military dictatorship in the Spanish 20th century. In the second military dictatorship, appallingly sanguinary and disproportionately long-lasting, the main ideologist of the military justification against the republican legality (that included the Catalan, Basque and Galician autonomies), Calvo Sotelo, proclaimed one of the reasons given by the rebel generals, that he *preferred a red Spain before a broken Spain*.

Forty years after a cruel civil war that sought the extermination of the adversary, in the words of Paul Preston (1997), and after a violent and never-ending dictatorship that lasted four decades, the 1977 Spanish electoral map was very similar to that of 1936. In that

moment, the defensive<sup>6</sup> peripheral nationalisms reappeared in the unfinished Hispanic nation-building process, claiming a self-government model that respected the differences of culture, language, history, economy and even law (civil law, for example), etc., characteristics that gave certain geographical areas a special idiosyncrasy different from the predominant one. Two constants will be at a decisive crossroads during the transition and regarding the constitution born from this period: Vindication of the differentialism during the brief historical periods where the citizens had political freedom and the constant intervention of the army as referee in a political environment that, among other elements, was limiting the claim for an autonomy (autonomous government). The vindication of the self-identity, particularly by Basques and Catalans and, to a lesser extent, Galicians, and the lack of generosity from a central State with a strong Jacobin influence alongside the ideological scope, was the reason why in 1978 a territorial decentralisation model called the autonomous State was established.

### 1. Open way, closed way or how it's possible to refuse to face facts

The 1978 Constitution opened the possibility of transforming an innate Jacobinism reinforced by a long national-catholic dictatorship that repressed any different sign from Spanish nationalism for generations, arousing a real cultural genocide in the other nations of the State. The electorate from the Catalan and Basque nations, still very vital, supported mainly nationalist political options that originated a constitutional agreement prone to political decentralisation fundamentally in these territories, and also opened the Galician (included in the second transitory provision) and Navarre (quoted in the

fourth transitory provision) options for historical reasons. This would create the group that would possess their own legislative power (as understood in 152.1). Despite inexplicably fleeing from the federalist option, the media, political and economic elites from the State established a turning point in the decentralisation advances of the political power. Actions such as the so-called *Estatuto da Aldraxe*<sup>7</sup> in Galicia, that aimed to reduce its competences to a regionalist second division and was ultimately saved by Adolfo Suárez in the summer of 1980, a few months before his resignation, can be considered the beginning

<sup>6</sup> The conceptual key taxonomy regarding nationalisms is the one that distinguishes among those that claim national dignity for subjugated communities and expansionists, which aim to impose the superiority of a nation, community, state of political grouping (García Pérez & López Mira, 1996, 11).

<sup>7</sup> The “Outrage Statute” or the Statute of the Sixteen was a document created in 1979 by a commission integrated by representatives from different political groups within the pre-autonomic process, during the Democratic Transition. After passing the statutes of Catalonia and the Basque Country, cutbacks regarding self-government were proposed. This was understood as an outrage by Galician politicians. Even Manuel Fraga abandoned the discussion table in protest and several demonstrations took place. Later on, some modifications were made in order to pass the Statute.

of a recentralisation. This would include rulings from the Constitutional Court, *inventing* their own autonomous State<sup>8</sup> with a clear invasion on exclusive competences belonging to the Autonomous Communities<sup>9</sup>. Also the standardising *Organic Law on the Harmonisation of the Autonomic Process* (July 1982), the attempted coup d'état on the 23rd of February, 1981, or the use of *café para todos (coffee for everyone)*<sup>10</sup> as a weapon by the central political power, creating sly competitors against historical nationalities that existed before the Constitution (according to the constitutionality) and were surviving for a reason... In short, a real beginning for a permanent wear that would ignore the possibility of a significant political agreement (such as the constitutional) regarding the territorial distribution of power.

Forty years later, it seems that the model was a failure and it seems that we are returning to the beginning or to something worse. Jörg Broscheck states that Spain “continues to be a Unitary State”, among other reasons, because the key political actors are fiercely opposed to federalism (2017: 52). What could have evolved towards a transformation model from a unitary state to a federal state, such as Belgium, only established decentralisation as something unavoidable. Literally, a problem to mistrust, always being distorted. In practice, the autonomous State was built based on hundreds of rulings from the Constitutional Court, where members are designated, exclusively, by central State levels of governance (behind them, the centralist political parties or defenders of the centre, according to Rokkan's terminology), unlike the federal models such as the German or the Spanish historical precedents (Second Republic). This created bias in the partiality of the referee *ab origine*, who was

also transformed into an architect by a political class reluctant to negotiation, one that made other institutions solve their problems in a political<sup>11</sup>, non-judicial manner or through arbitration. They also provoked other institutions to solve their problems in a political, non-judicial way or through arbitration. This practice eliminated exclusive autonomous competences through various mechanisms: from transferring these competences to EU bodies (almost the only representative instance is the central State), to the perversions of the basic legislation of the State, which achieved an overwhelming size while reducing numerous competences (we insist, exclusive to the Autonomous Communities) to the simple execution of the guidelines from Madrid (the organic and competence duplicity is the responsibility of the State to a higher degree than the Autonomous Communities). Also, a funding model leaving tax federalism, which reduced a political autonomy that depended, regarding budgetary resources, on State transfers and not on their own income, with exceptions of the Basque and Navarre regional Treasury.

Seventeen years ago, López Mira (2003-2004) tried to systematise the most remarkable distorting elements that we could observe in the decentralising model implemented after twenty-five years of validity. In that moment, it was indicated that it was a bad organisational solution regarding a political problem that was, in some way, announcing its foreseeable exacerbation. That article pointed out the role of the Constitutional Court, the acknowledgement of a Senate that does not develop its role in the territorial representation house, a centralised judiciary, the financial dependency of the Autonomous Communities, the emptying of competences, etc. These causes led to a profound dissatisfaction in part of the

<sup>8</sup> This name does not exist in the Constitution.

<sup>9</sup> For example, the early ruling 32/1981 prevents the creation of “*comarcas*” (administrative division comprising a number of municipalities) as local entities in Catalonia, to substitute the provinces and their governmental organs (Provincial Council) (in the single-province Autonomous Communities they have disappeared), which started a long process that increased the state bases on supposedly exclusive competences of the Communities. In this case, the Court created, in a great imaginative effort, although questionably constitutional, what was called a “*régimen local bifronte*”, this was a model created by a Constitutional Court ruling. This established that the central state and the local regime could act simultaneously, contrary to the autonomous statute, which clearly indicates its exclusive competence on local matters.

<sup>10</sup> General self-government.

<sup>11</sup> Agustín Ruiz Robledo wrote in the same sense: Veinticinco años de Estado Autonómico en la *Revista de Derecho Político* (2003-2004, p. 723).

differentiated nationalities for whom this model was created. The current territorial problem was predictable unless a federal solution had been adopted. This solution would have the following characteristics: acknowledgement of the plurinational State, a territorial representation house with according authority, a Constitutional Court with equal designations between the nationalities and the central bodies, constitutions for the member states that could be reformed provided that the reforms were respectful of the Federal Constitution, tax federalism, federalisation of the judiciary and ability to respond to European matters or a higher degree of transparency regarding the division of competences. These elements seemed to allow a great federal agreement, at least on an instrumental level (the creation of a federal culture would be something different as will be discussed later).

In our opinion, this was a moderate proposal adapted to most of the federal models where, according to Félix Knuepling, despite their diversity, there was “an unequivocal separation of powers and responsibilities among the government orders” where, “in general, federal governments have powers and exclusive functions in areas such as national security, foreign matters, monetary system, citizenship, immigration, emigration and extradition or intellectual property protection” (2017: 22). It is striking that the different EU central governments, including the Spanish, were not ashamed to move most of the quoted elements (that usually belong to the state) to that one (or to other international or transnational bodies such as NATO or organisations such as the TROIKA) and, nevertheless, were reluctant towards internal decentralisation except for federations, as kind of *ad intra neo-westphalian* that tried to compensate the sovereignty losses in the federal European integration process. This author points out that governments from the constituting unit usually have competences in areas such as regional and metropolitan courts, public services,

police and public security, local and state infrastructures, health, education, administration and the application of laws and state programs, among others. This made us perceive the emptying of competences that exists in the Spanish case.

We should add the scarce sensitiveness that the state political parties<sup>12</sup> show regarding the autonomous communities, not to mention their “bad temper” or bad attitude regarding all the aspects that can show differences with the official State language and culture. The core of the issue is not the differences in administrative Law, as some well-known academics and experts from Madrid elites seem to believe, this is not a simple territorial decentralisation. It is a political issue of great importance, consequently, the legal formality regarding the reforms – even constitutional – of federal instruments and tools will probably not be enough. If in the Spanish State there are several nations (political, not only cultural), this fact should be acknowledged, or at least discussed, negotiated, even though it is not shared. This is what democratic politics are about. Simplifying the problem with the contempt of what is considered different (insults towards the peripheral nationalisms are irresponsibly frequent) is not going to solve it, even if all the economic, financial, media, sport or corporate conglomerates (security bodies, unions, professional associations...) consider that they would be damaged if there were more than one Spanish nation with its language and its unique – many times topical – idiosyncrasy. On the contrary, we are proving how the most diverse prejudices (people are blaming Catalonia for the decrease in the State GDP) are caused by reasons of the opposite kind. Herrera Yagüe stated (2018) that today Spain is more unequal than in 1978, in terms of GDP and Gini coefficient, with Madrid being the great beneficiary due to the centralisation of economic activity, more so than during the Franco era<sup>13</sup>. Moreover, the historical and comparative experience shows that is possible to

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<sup>12</sup> Those who present their candidacies in all the constituencies of the state and who are unitarists.

<sup>13</sup> The author highlights that Mercamadrid is the second fish and seafood market after Tokyo, although it is hundreds of kilometers from the sea, more than just anecdotal. The book written by Óscar Pazos, *Madrid es una isla. El Estado contra la ciudadanía*, 2013, addresses this matter in depth.

foster an antagonistic outcome over the intended one, and this is occurring. Think about the astonishing and fast advance of the pro-independence tendencies within the

Catalan citizenship since the 2010 Constitutional ruling against an Autonomous Statute positively advocated by the citizenship.

## 2. *Quo vadis?* The road towards nowhere or the possible worst choice

Seventeen years after that prophetic article, we could not have predicted that the recalcitrant continuity of the original scheme could finish in a powerful centrifugal political movement in Catalonia that is even questioning the current territorial permanence of the Spanish State. The anti-federal narcotic that was the autonomous model lost its effects and the clash of nationalisms may, currently, make the transition impossible because of a “Spanish” federal solution. We must not forget that there is no single federalism model but as many, at least, as federal States exist.

In this connection, it has been published a new article to update the analysis on an issue (López, 2018) that is more entrenched and that, probably, depends less on instrumental mechanisms as those we have already quoted (these mechanisms are essential, at a symbolic level as well) and more on elements belonging to high-level political negotiations which are necessary for any federal agreement but essential in situations of confrontation with aspects of irrationality. As pointed out, the differential vindication in certain territories of Spain is not an anomaly in times of globalisation. On the contrary, as Keating (1996) stated twenty-five years ago, it fostered the outbreak of local identities that had been latent even in consolidated democracies (Canada, United Kingdom, Belgium or, more recently, France with the Corse case), using democratic mechanisms, i.e. the plebiscitary will that was proven election after election by their regional citizenships. This seems the ideal context to defend a federalism that would implement an acceptable formula for the key agents of the centre-periphery cleavage, as persistent in history as reinforced in the 21st century,

which is at the forefront of the endless and unfinished Spanish State building process. As mentioned above, most of the political, media and economic elites are in favour of recentralisation. Thus, the autonomous model that was configured, as González Mariñas asserts (2018, p. 147), establishes the competences of the autonomous communities (except for the Basque and Navarre fiscal exception), which are numerous regarding executive manners but miserly regarding the true decision-making process and undermined because of regulative techniques by the central State. These are not in accordance at all with the federal models that, in essence, are negotiated. The invasive legislative techniques subtract real decision power from the Autonomous Communities; therefore, they only have implementation competences that are characteristic of the administrative decentralisation. The constant centripetal tendencies only managed to accentuate the centrifugal tendencies.

In connection with this, Ferrán Requejo stated the fact that the Spanish autonomous model granted the central power a blank cheque regarding the interpretation of fundamental questions for self-governance. For example, the limits of their own competences or the detailed limits of the basic legislation to the extent of emptying content from the legislative development allowed by the Autonomous Communities (public function, universities, local regime). This is a standardising interpretation of the citizen rights guarantees and of the organic law content (electoral, referendum) or an expansive interpretation of the administrative or executive functions “This way, in practice, self-governance sometimes is reduced to interstitial and marginal fields (...). The autonomous model has become

standardising in almost all of the relevant fields for self-governance (education, health, public function, local regime, universities, research, commerce, etc.). This is an especially dangerous question in the cases of Catalonia and the Basque Country because their citizens have showed a clear will to achieve a greater self-governance (...). It is not politically anecdotal that the Constitutional Court has stated on several occasions that constitutional imprecision cannot declare most of the central power decisions to be unconstitutional, despite their expansive character” (2007: 132). The opposite could also be said if the Court had an unethical drive regarding what Requejo stated, thus, it would not be possible to say that the Constitutional Court could express displeasure, turning the constitutional ambiguity into central explicit powers.

As Elazar, an author of reference in this matter, indicates,

non-centralisation is not the same as decentralisation (...). Decentralisation means the existence of a central government that is able to distribute functions or areas, as considered appropriate. In the decentralised systems, the dissemination of power is a matter of grace, not a matter of law and, in practice, eventually, is regarded as such (Elazar, 1990, p. 59).

In the classic federal systems with a non-centralised system (the United States, Canada, Switzerland), even though

all have a central or national government, this does not control all the political communication lines and the decision-making. In these countries, the provinces, states or cantons are not federal government creatures, but they received the power directly from the people. They are structurally immune to federal interferences (...). Non-centralisation is represented by a matrix of

governments (not by an hierarchical pyramid), where there are not superior or inferior power centres, only wider political action forums (Elazar, 1990, pp. 59-62).

Note the difference with the case of the Catalan Statute: The Constitutional Court versus popular will, which, in the opinion of Professor Pérez Royo (2017), broke the constitutional agreement. Four years ago, López Mira (2017) said the same in a congress that took place in Ourense, highlighting the breaking of an agreement that would need two political wills: the autonomous and the state will, expressed by the body that represented Spanish sovereignty and reinforced by the plebiscitary will of the interested parties, the Catalan people. Nothing less, but nothing more. The day that a State body, technocratic we could say, with its prestige in question<sup>14</sup> but not politically neutral, burst into the core of political covenants with a high levels of consensus, assaulted, without any doubt, the delicate work behind the constitutional agreement in territorial matters and moreover, against the same political subject, Catalonia, which had inaugurated the interpretative track of an autonomous State which was never pro-federal. If territorial integration is not solved and central state interventionism is extreme and unmotivated (even with the redundancies of administrative structures), to boast of a decentralised territorial and political model is a fantasy or a fallacy, some kind of trap devolution and, much less than the Spanish doctrine states, federal devolution. The infringement of the federal principle is obvious not only in the materiality but in the complete absence of federal spirit. In this State, the agents seem to constantly miss unitarism based on inexistent essentialist sovereignties (*mutatis mutandis*, something similar to many peripheral nationalists).

The elements of a federal regime include a participation sense among the parties that is expressed through discussed cooperation. The willingness to bargain

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<sup>14</sup> It is true that not always due to circumstances attributable to it, but the partisanship in charge of other recruiting of its members that, somehow, dragged it in the eyes of the doctrine and of the public opinion. It is not insignificant that, out of the 62 magistrates of the Constitutional Court, only 3 had worked before in Catalonia, 1 in the Basque Country, none in Galicia and 47 (more than 75%) in Madrid. If we take a look to the field of university professors, out of 33, 2 had worked in Catalan universities, 1 in the Basque Country, none in Galician universities and 20 (more than 60%) had worked in universities in Madrid (Bustos, 2018).



until reaching agreed solutions or, at least, for each party to know that its integrity is safe. The federal structure is only meaningful in those countries where the government style reflects it (Elazar, 1990, p. 95).

On the other side, the major political culture in the State refuses to understand that the minorities want to look for their own place under the sun, consequently, it chooses strategies, sometimes, that are victimised and more frequently aggressive, devoid of any federal spirit. Practically the entire majority of the mass media (televisions, radios or press) based in the capital city of the State control the media agenda of most of the country and were harsh with the differences from what they consider the standard of Spanish political culture. Sánchez-Cuenca points out that they fostered an “uncompromising spirit that is now in great sectors of the public opinion and, ultimately, comes from a self-conscious Spanish nationalism that understands the acknowledgement of other nations as a weakness or a questioning” (2018). The term nationality can be considered as a synonym of cultural particularity, but Bastida Freixedo points out that “it is contingent to the absence of sovereign drive and its validity is possible as long as they do not dispute the *prius* of the Spanish national unity”(1998 p. 85). In this connection, Innerarity considers that a nation is a political principle (not only cultural), which does not mean that it leads up to the achievement of a State:

If I feel a nation, it is not because I like a language or some regional dances, but because I want respect for a principle of self-government and an acknowledgement for this subjectivity. This is not folklore. This needs to be taken seriously (Innerarity, 2017).

The opinion of Bastida on the permissibility with hypothetical nations or cultural nationalities could even be considered questionable (in some euphemistic way) regarding the disregard of the own languages (sic in the constitutional corpus), Galician, Basque, Catalan.

Although they are official in their territories (article 3.2 of the Spanish Constitution), the right to know them is fought for and unlike in other multilingual federal states, a major part of society and the Spanish elite do not esteem them as a cultural wealth<sup>15</sup> but as a pernicious disintegrating element that only belongs to peripheral nationalists. This is totally the contrary to the Elazar’s *federal thinking*, where

the idea of a society that relies on the base of a series of agreements and covenants that allow the pursuing of goals while the integrity of the parties is respected, is deeply rooted in the cultures of real federal countries (Elazar, 1990, p. 107).

Would someone dare to say that in Spain there is a federal society, if only a minimum federal society?

Even though, according to Caminal,

federalism does not have a future when state nationalism does not want to renounce absolute sovereignty on what is considered as *its national territory*, or when; an opposition nationalism vindicates the right to the absolute sovereignty of *their own national self-determination territory* (2002, p. 105).

It is also true that

nationalisms are more moderate when they reach agreements and they radicalise themselves when there is no desire for negotiation or when reaching an agreement is impossible. In this sense, federalism may serve as an understanding fact and as nationalism appeasement (Caminal, p. 105).

Romero González states that peripheral nationalisms resisted —not only in Spain— even in the most adverse conditions:

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<sup>15</sup> Interestingly, the Constitution does, in article 3.3.

the facts, for better or worse, show that the end of the 20th Century, nationalisms cannot be understood as a pathology but as a legitimate political expression of the right to difference. This plural and unfinished Spain has to tackle what Kymlicka would define as the comfort of the national cultures in the contexts of a major social culture (2002, p. 33).

Ronald L. Watts, another world authority in this matter, points out “when diversity is rooted in society, the simple effort to impose political unity has rarely been successful and, frequently has even provoked the counter-effective effect of the separation” (2006, p. 110). Thus,

federalism can only exist where there is a high level of tolerance towards diversity and a steady will to exercise political power through bargaining, even when the power to act unilaterally is available. The main requisite to act in a federal system is the ability to build consensus, rather than the power to threaten with coercion. Western countries can provide several practical examples of national self-control regarding the approach of difficult federal problems (Elazar, 1990, p. 229).

In the Observatorio Político Autonómico of 2008, two years before the ruling of the Constitutional Court, 11.6% of Catalans only considered themselves members of their Autonomous Community (32.7% in the Basque Country), 19% more Catalan than Spanish (17.1% in Andalucía or 22.8% in Galicia) and 47.3% had a feeling of belonging shared between Catalonia/Spain<sup>16</sup>. In a very recent survey (No. 996 of May 2021) by the CEO (Center for Autonomous Studies) of the Catalan Government,

almost 60% of those surveyed believe that Catalonia should be a State within a federal Spain (25.6%) or an independent State (34.2%), the only question about it reaching the support of 44.9%<sup>17</sup>. The sociopolitical exchange, as we already said, had a similar magnitude to the vertiginous political events (disappearing of almost hegemonic government parties, dramatic changes in the system of political parties, several elections...). The mentioned data changed to approximately half of the Catalan citizenship supporting, by democratic means, a republic independent from Spain<sup>18</sup>. The simplification of a political question of this importance with the contempt towards what is different or even irrational, is not going to solve the problem but will make it worse, with some kind of unconscious secessionist unitarianism. In the last European elections of 2019, the three clearly nationalist, independentist or pro-independence coalitions (Catalan, Basque, Galician and Navarre) obtained more than the 13% of the votes cast (3 million), which could turn them into the third political force of the State, if they were to come together. In addition, the fact that the party that governed Spain for 16 of the last 23 years, the PP (People's Party), did not achieve a seat in the Basque Country and only one of 48 in Catalonia is a sign. How is it possible that a minimally responsible and conscious government could pass an urgent decree to facilitate the changing of registered office of companies based in Catalonia to another part of Spanish territory, even against the statutes of the companies, as happened in 2017? “The plural federation demands *polycentrism*, that is to say, that different government centres exist, without any of them overwhelming the rest in any matter or competence” (Caminal, 2002, p. 165).

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<sup>16</sup> Observatorio Político Autonómico. Developed by the Universitat Autònoma de Barcelona, the University of Granada and the University of Santiago de Compostela, p. 38.

<sup>17</sup> <https://ceo.gencat.cat/ca/barometre/detall/index.html?id=7988>

<sup>18</sup> About 6% of Spanish citizens of voting age are creating an alternative *demos*, according to Jordi Amat (2017). A substantial minority that, as is well-known, is not the only one within the State and should be respected in democracy.

### 3. Conclusion

In the Spanish case, reaching this meeting point seems difficult but what is essential is to overcome an autonomous State, the antithesis of federalism. We have already experienced political and territorial constructions that are more complex. Let us mention, for example, the European Union that, although lame when walking towards the adaptation to the most recent deep social, economic and social changes, is successful through its creative singularity. Most likely, it is more difficult to create a political culture based on the respect for differences and different people that are not helots nor foreigners and, thus, potential enemies of the motherland and irrational in their thinking<sup>19</sup>. That does not deserve discussion but discrediting by the intellectual elites and their media loudspeakers, insolent intellectuals paraphrasing the title of a Sánchez-Cuenca book (2017), establishing the official truth<sup>20</sup> or the prejudice dogma of single-mindedness<sup>21</sup>.

It is not possible to understand complex contemporary societies if not from a diverse point of view, overwhelmed by an enormous pluralism. Professor Innerarity points out: “most of the concepts that we use in politics – sovereignty, power, territory, representation, legitimacy– appeared in a moment when societies were simple, homogeneous, autarchic and delimited. We no longer have those nowadays” (2017). Certainly, the creation and design of a change in paradigm will be difficult because, as we have observed during this article, the categorical imperative of the Spanish centralism is very deep-rooted and considers that any other hypothesis is out of a universal law of nature and thus is not rational and should not even be considered. Moreover, this change should not last long, in our opinion; because the situation runs the risk of being damaged to the point of being irreversible.

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<sup>19</sup> Some of the usual epithets, nonexclusive, in academic writings are “pre-political”, “anachronic”, “outdated” or “irrational” (Romero, 2002, p. 33).

<sup>20</sup> Bastida Freixedo proposes the experiment of randomly choosing any of the one hundred seventy numbers of Claves de razón práctica until 2007 and in all could be possible to find an article against nationalism “of course, peripheral nationalism” (Bastida, 2007, p. 114).

<sup>21</sup> TN: *Claves de razón práctica* was the key journal for the intellectual elite based in Madrid during the eighties, establishing certain kind of “official truth”.

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