"Democracy And local government in Spain: Evolution and trends in the interpretation of local autonomy"

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DEMOCRACY AND LOCAL GOVERNMENT IN SPAIN: EVOLUTION AND TENDENCIES IN THE INTERPRETATION OF LOCAL AUTONOMY

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I. Introduction: Some reflections about the Local Autonomy
Each conception of the Local Autonomy (LA) expresses the amount of power that corresponds or may correspond to the political organisations of the state and the form and limits to their exertion.

The evolution of the principle of local autonomy has been determined by both the own evolution of the democratic regimes and the process of adaptation of the economical system to the transformation of the social reality which gives place to the Social Welfare State. In the beginning of modern democracy the debate on the adequate mechanisms to guarantee a real "people's government" was centred in the dialectic between direct participation vs. representative participation. The triumph of that last one concentrated all the weigh of democracy in the electoral process, which become the only way of participation for the people in the decision making process and therefore the application of the general will.

In those initial moments, and with reference to the local governments, there were some important changes. In one side there was an indisputable believing that the municipality was the fundamental territorial unity for democracy and the main geographical unit for the citizen socialisation. But at the same time other doctrinal schools rise from political thought and juridical dogmatism. This approaches justify the distribution of functions among the superior and inferior levels of the government according to its legitimisation, and based on the criteria of who represents the defence of the general interest and the balance between this one and the local interests.

The political intention in a decisive moment of the consolidation of the Nation-State is more than evident. In times when the concept of sovereignty played a fundamental role in political science, they tried to justify the limited political protagonism, as reserved to the local authorities. The concern for the local administration did not take place until the national political stability was reached.

By the first third of the twentieth Century, the conception of autonomy that controlled the debate on the relations between the local and the central level, recognised only the self-administration of local affairs and those powers that were delegated by the superior administrations (administrative decentralisation). Both of them under a strict control from the central government of the country. But, following the theory of "self government" and the principle of "ultra vires", or following the doctrine of the "power of general competency" in the different European countries, the doctrine has tried to find the fundaments for the administrative autonomy if the local entities, neglecting consequently its political autonomy.

The insufficiency of the mechanism for the participation in the process of decision making is evident, either from the viewpoint of the society organised in groups of interest or from that of the representatives of the sub-national governments. Even though, the national governments showed inevitable centralist tendencies in the beginning of the Social Welfare State. With the processes of urbanisation and the increasing complexity derived from the process of globalisation there has been an increase in the concern for creating new forms of participation that meant the inclusion of more and more sectors in the decision making process.

Leaving aside the effects of the evolution of the system on the State (apparatus) and

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society in general, we are interested on the changes that take place on the relations between the superior (upper) and central levels of the government and the sub-national levels (regions and local entities) and the principles that rule those changes. From the point of view of the territorial distribution of the power, the democratic principles show themselves in the notion of decentralisation, the notion of autonomy, and the notion of subsidiarity, all three deeply interrelated as the basis for the territorial and juridical regulation.

The new concept of State that appears after the Second World War has a direct impact on a process of territorial reorganisation with no precedents in western Europe. Leaving aside differences found in those countries in a particular processes of reform, it is possible to set a common structural deficiency as it is the infra-municipalism. Therefore, we can identify two main groups. One integrated by countries of the North of Europe plus England, and the other formed by the countries of South and central Europe.4

In other words, the main topic behind those process of reform, that is matter of our concern relates to the design of a map of the territorial organisation of the States which allows us the application of the principle of decentralisation as guiding concept in the backbone of the principle of territorial power. This without losing the necessary role of relative control from the central government to avoid the problems derived of the excessive fragmentation. In a system characterised by the recognition of democratic principles and by the increase of social demands, the national governments lack of both the legitimacy and the necessary resources to multiply indefinitely their own administration.

In the same sense, it was important The democratic emphasis does not lay in the questioning of the right of the local authorities to take part in public affairs (once the distinction between local and general interest is overcome), but in the content and scope of a presupposed right5. The local autonomy in democracy is related to the capacity to influence on it f local policies????). In that moment tension arises since we try to combine the autonomy with other principles and constitutional values, as unity, equality, and solidarity.

A revision on some of the most significant works on the evolution of the local government of the second half of the twentieth Century in western Europe allows us to reach a first conclusion about the degree of consensus in relation to their status in the actual European political systems. These are fundamental pieces on the political-territorial organisation, and their role is indisputable from the political-administrative point of view as from the economic and social point of view.

Beyond this broad agreement, the existence of historical and political peculiarities, the especial factors related to the territorial characteristics, and the distribution of the population, have driven towards different ways of organisation for the local government, derived from the two main conceptions mentioned above.

Nevertheless, there is not a direct relationship between these two conceptions and the role of the local government in the system. This is reflected in three main aspects: the distribution of functions, the scope of the autonomy and discretion of the local entities, and the local governments capacity to influence on the policies that the higher levels adopt towards

That implies that the principle of local autonomy is a contingent and dynamic principle (there is not an unique interpretation for it), which is determined by a multiplicity of factors related with the context within it. That does not mean that there would be an absolute discretion in its interpretation, but a wide range of freedom for the superior (upper level) government that are the ones who legislate on this question (nationals and regional government.)

In the majority of the constitutions from the II World War we can find an explicit recognisance of the autonomy of local entities, and generally the remission to the ordinary legislator of the jurisdiction regime of the local government. In general, if we follow Goldsmith and Knewton we can distinguish among three groups of countries: Great Britain in one side, the northern countries on the other, and finally the central and South Europe countries in the third group.

Facing those differences we can observe a common tendency that is manifested in the existence of an agreement at European level which refers to the values that underline that principle and its objectives. That agreement is expressed in the European Chart of Local Autonomy of 1985, which constitutes the institutional framework of reference for the area of responsibility for the local governments for the members of the European Council. However, we have to recognise too that the nature of the agreement, beside the ambiguity which sometimes has characterised the Charta, it allows a wide range of freedom for the different States in the definition of their scope and limits. (A general characteristic of the international agreements is the free will to fulfil them.)

It is also in the Charta where it does appear for the first time the express recognisance of the principle of subsidiary united to the local powers. It is the year 1973 when we place the apparition of this concept united to the European Constitution This principle ad the rejection of the administrative tutelage, conform the basement for the principle of Autonomy. Basically this principle, as the one of decentralisation, act as the legal backbone of the criteria of the organisation of the territorial power since it defends “the jurisdicction of the lower geographical entity given his close position to the citizen according to its capacity”, and in virtue of the criteria of rationality and administrative efficiency.

Moreless a new element of distress for the central-local relationships need to be added here. The principle of subsidiarity implies a different conception of the local government. The objective is not only to maximise the decentralisation, but also to stimulate the initiative of the local governments. As it is mentioned in the Charta, the principle becomes the guarantee for democracy at the local level. However it allow an integral participation of the local government in the local policies, but at the same time mean a great deal of responsability for the local governments.

The privatising policies and the neo-liberal winds that blew at the end of the 60’s and 70’s with the objective of resolving exclusively economical problems did not reach their goal. Not

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only that, they also has produced a negative influence in the general credibility of the system, undermining the citizen’s confidence on democracy. By the end of the twentieth Century, the governments from western Europe foresee as an alternative to the crisis on legitimisation the necessity to revitalise the local governments, digging into democracy through a series of mechanism guided by the three principles already mentioned and by the new values derived from the globalisation.

II. The Evolution of the Local Government in Spain

After forty years of dictatorship the Spanish Local Administration has been left, from all the points of view, as an impoverished administration that carries out but few administrative functions. On this administration have been strictly applied the principles of territorial administration inherited from authoritarism: centralism, uniformity, and hierarchy regimes. All these, besides the subordination and the dependency, characterise the local regime throughout this period. To these starting premises, (i.e. the lack of resources and experience) we have to add the structural problems of the local entities. Against what the Franquist uniformity may suggest, diversity, fragmentation, and the infra-municipalism are clear characteristics of structural inadequacies. Particularly, that infra-municipalism means that in the actual moment near the 75% of the municipalities hold less than 2000 inhabitants. That implies the logical existence of a managerial disparity of the different local entities -considering that there are more than 8000 municipalities- what makes it very difficult when we try to analyse the complex framework of social and political relationships, which cannot be obviated in their consideration as real government indicators.

As a second level of local administration we find the province where the role of government and administration is fullfilled by the Diputaciones. Despite that is under the same principles than the municipalities, it develops an activity that exceeds the previous one since beside the traditional role of welfare, sport and culture it also have the role of cooperation and assistance to the smallest municipalities (those with less than 20 thousen inhabitants). The Diputations has entered the administrative arena fullfilling an economic and cultural role, and their assistance has been requested many time by the Ministeries and by the autonomic entities. Moreover their organic structure is constituted by counselors from the different areas of the provinces, the ones that really know the necessities and priorities of their local areas. This role of representation has turn them as an autonomous provincial power that is recognised by the Constitution.

Facing that lack-ridden situation, different studies on the government and the local administration's evolution have been carried out in Spain from different perspectives (sociology, 

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10 Percentage reviewed in February 2000. Municipalities with less than 2,000 inhabitants: 5,929 (73.25%). Information obtained in the "Local Administration Data Base". INFOACCESCO, S.L. Utrera (Sevilla), 2000.
politics,...). All of them coincide in the affirmation that before the first democratic local elections (1979) the neighbourhood and associative movements of local range had already played a fundamental role in the impulse for the re-establishment of a democratic regime. After those initial movements and after having elected the first local representatives, it would be the political parties and the political responsibility held by them in the Corporations, who really led the real change of regime from a centralist and authoritarian system to a democratic and decentralised model. (Bien esta bien expresado y traducido pero deben necesariamente agregar bibliografía, pues esto es literatura clásica de transición a la democracia.)

- The local government in the Constitution

There is a clear consensus that the Constitution shows little attention to the local ambit. While the constitutional text regulates exhaustively the AACC (access ways towards autonomy, institutional designs, competencies, etc), in the case of the Local Entities (LLEE) the succinct regulation of their juridical regimen limits itself to recognise the institutional guaranty of municipalities and provinces, and to recognise the autonomy that they have for the administration of their respective interests. In that way, the constitutional design of the territorial organisation of the power has derived in a position of inferiority of the local entities in relation to the AACCs as a consequence of a series of factors: [AACC stands for Autonomous Community.]

1. Since the beginnings of democracy the doctrine has differentiated the autonomy of the AACC from the local corporations which were considered as entities with an administrative character. The Constitution only recognised normative capacity to dictate laws for the first ones, what reduced the local autonomy to an exclusively administrative ambit. That is possible because the Constitution classifies the territorial entities in an autonomy gradation, which is based upon the liberal correspondence that existed between general interest, legitimisation, and regulation. There is a ranking based on it that situates the State in the first place and the local entities in the last position.

2. The lack of attribution of competencies in the same Constitution. The Constitutional declaration of autonomy for the administration of their respective interests and their later presentation to the sectarian legislation for their concretion, brought, due to the slackness of the last one, to the situation of lack of definition for the competencies, where the municipalities have found themselves immerse until a not far period. In the distribution of competencies between the

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12 Among others we can review, MORELL OCAÑA. Las Entidades Locales, elementos integrantes de la organización territorial del Estado y de las AACC. REDA, n55. 1987. EMBID IRIJO, Autonomía municipal y Constitución: aproximación al concepto y significado de la declaración constitucional de autonomía municipal. REDA, n30. 1981. MARTÍN MATEO. La Autonomía Local y el sistema normativo español. RAP, n94. 1981.
central and regional governments, it is specified that the basic legislation belongs to the first and that of the development belongs to the others.

3. To all those factors we should add the question of the economic self-solvency of the local entities. As the Constitution says, they should be able to dispose of enough economical resources for the development of their functions, being the main financial sources the transfers that the State and the AACCs give to them, apart from the taxes that they collect.

- The Political Context, objective: The State of Autonomies

The creation and development of this new level of government presume an authentic transformation in the territorial organisation of the power from all the points of view. But those who have mainly suffered the impact of its creation are the local governments. Although it is evident that they are not part of a planned territorial policy, from the perspective of the reorganisation of the local government, we can classify Spain in the bloc of countries that rejects the amalgamation and opts for regionalization.

Thus we can affirm that in Spain and throughout the 80's, all the efforts were directed towards the fulfilment of the political content of the new AACCs. They appear and grow in a setting of political emergency. Their institutions become reivindicative platforms of the regional political elite, who yearn to legitimise their role according to the unsatisfied social demands. The Law of the Basis for the Local Regime is not approved until 1985, where the local autonomy is delimited to the establishment of a material ambit where the local entities should apply their competencies. The problem is that it is not mentioned to what extend. All but one AACC (we will see that later) did not legislate about the local regime until the end of the decade. This normative is in its majority directed towards the articulation of the relationships between the different entities that work in the territory but it does not concretize the theme of the competence. None of them, while legislating in the material ambits, has developed in a substantive way the attribution of competencies to the municipalities.

This attribution has to be inspired, following the principle of subsidiary, in the criteria of fomenting the highest proximity of the administration to the citizens, and giving competence in relation to the capacity for administrating of the respective entity. It is precisely in this point where we find the biggest problems, as the administrative capacity of the Local Corporations is directly related with the size and the resources that they have. The high fragmentation mentioned above, as the important differences existing in what are resources and population of the different entities that form the local space, have been used permanently for the AACC as an enough reason to postpone the theme of the decentralisation of their competencies in the local governments. In that sense, the decentralising efforts they have carried out, as we will see, have been concentrated in the Councils and not in smaller entities as the Town Councils, using only in

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particular cases the creation of agreements with them for the provision of determined services.

Parallely, the nation's government does not regularise the local Treasures until 1988, coinciding in time with the autonomic demands of financial transfers\textsuperscript{15} that takes us again the supeditation of the municipal affairs to the autonomous policy. The slip on constitutional mandate in relation of the economical self-solvency of the local Treasures by the superior entities, has forced the local entities to stop their investment possibilities, as they use a great deal of their resources to get their Treasures into shape. We have to add to that situation the fact that the tributary authority in the case of the Town Councils is reduced drastically to a few taxes that can hardly generate any incomes.

\textbf{- The territorial organisation of the Autonomous Communities}

Independently from the party in power, all the AACC hurried up to multiply services and prestations, being more interested in quantity than in quality. That political culture concentrated its attention in the inversion, leaving aside aspects as the amortisation, the maintenance, and even the administration models. In simply words, what was important in those days was to make the structures grow\textsuperscript{16}.

The preoccupation of the political class for the plurality of Administrations that, as a consequence of the recognition of the different levels of government, were to be created in the same space, took them to try to have an influence on\textsuperscript{17} how to find formula of simplification for them. They basically consist on, once the competencies to alter the municipal terms in their territory are assumed by the AACC, and also the functions that correspond to the State Administration on local Corporations (whose transfer authorises the legislation on general regime), it would be own regional governments the responsible to carry out a decentralisation in favour of the LLEE.

Nevertheless, we have to asseverate that it does not exist a single model of articulation between the autonomous administrative level and the inferior levels in each of the Autonomous Communities. The reasons behind that situation are numerous: there are geographical, political, and historical differences between the different AACC\textsuperscript{18}, and all that pluralism had necessarily to be reflected in the design made by the Statute of Autonomy of the respective administrative systems. This has given place to different models of vertebration in the inter-administrative relations among the different regional governments.

We have established a typology in function to articulate possibilities of the inter-administrative relations, taking as a basis the traditional division that the authors establish\textsuperscript{19} in
relation to the geographical, historical, and juridical peculiarities of the different AACC that integrate the Spanish panorama.

In that sense, that classification distinguishes between: the basque model of internal political decentralisation, the insular model, the model of the plural-provincial AACC, and uniprovincial model of internal decentralisation. Without stopping too much in the study on all of them, we could say that except the Basque Country and, in less quantity, the insular AACC, the results have been quite similar in all of them. Although it is similarly true that from the 90's onwards we can see how some AACC begin to differentiate themselves from the others as a consequence of the adoption of concrete steps to set off the so-called Local Agreement.

In general, in what is related to possible techniques of decentralisation of administration of competencies in favour of the local entities, the regulation of the AACC foresees different alternatives. The difference among them stems from, in first place the possible cession of the titularity of the competence of execution in favour of the local entities and, in second place, in the establishment of bigger or smaller controls from the part of the AACC on the local entities, in what refers to the exercise of this competition when the titularity is not transferred. Except for the basque case, the AACC have preferred not to lose the titularity and have opted for different mechanism where it can take part supervising the administration. The control varies depending on those instruments, but we have to mention also that the most rigorous are not generalised, when the smaller entities denied their consent for a transfer of their local autonomy in exchange for part on the AACC.

The models of decentralisation

Autonomies, Barcelona
1. The basque model of internal political decentralisation constitutes a singular kind. It may be the most different model of all of them, even though it was presented initially as an example to follow for the rest of AACC by the Experts Commission on Autonomies in 1981. Nevertheless, we have to point out that the binomial of common Institutions of the basque community and the existence of Historical Territories, produces a very singular model that cannot be exported to any other.

The Historical Territories perform an institutional role in the Autonomous Community. Even though they coincide with demarcations of local regime, they are essentially entities of political order, as far as their institutional system reproduces at that level the form of the parliamentary government.

From the competencial point of view, the Statute and the Law of Accord reserve for the Historical Territories an unavailable nucleus of competencies, that could be broaden by a law from the territorial parliament. That system of distribution of competencies is similar to the model used by the Constitution for the distribution of competencies between the State and the Autonomous Communities, using as well the terms: subjects, the functions exerted on each subject, and the residual clause.

In that way, the autonomous Councils (organs of government and Administration of the Historical Territories) assume normative and regulation competencies, and mainly executive competencies on physical spaces that in other ambits belong to the Autonomous Communities or, even, as the tributary competencies, belong to State Administration through the State Tax Agency.

In conclusion, we could affirm that a real model of decentralisation of the internal policy is present. It is presented divided in two administrative levels that dominate the whole: i.e. the autonomous Administration and the autonomous Councils, and in the inferior levels only with a residual character, that is, in the Town Councils.

2. We may also highlight the model applied by the insular AACC, we mean Balearic and Canary Islands. The reason for it is that the geographical peculiarities have made an administrative decentralisation possible, although it has not prevented the existence of a powerful own Administration of the AACC that will coexist with the insular Administrations. In both cases, Balearic and Canary Islands, the respective Statutes of Autonomy -although with some differences- recognise the institutional role of the insular organs.

This model of autonomous decentralisation simplifies the administrative scenario

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15 Report demanded by the political class which was formed by a series of experts in Law and which resulted in the Autonomical Agreements of 1981, and also in the Organic Law of Armonization of the Autonomical Process. That Law was declared as partially unconstitutional by the Constitutional Court in 1983, as it interferes in the autonomy of the AACCs as it anticipates a singular interpretation of what should be the State of the Autonomies negotiated by the central political class and, above all, because it attempted to stop the growing of the Autonomous Administrations.

although not in a general way, as there is a clear delimitation of subjects that are administrated by the Insular Councils, which allows the existence of a dense autonomous administration net for large physical spaces.

3. The model for the plural-provincial AACC brings together all those who are integrated by several provinces. With a general character, and within it we collect all those cases (except Cataluña) where the statutory foresights and the legislative development have undergone in different ways. Almost all of them approve subsequently their Statutes to the autonomous Agreements of 1981, which were based upon the mentioned Report of the Experts Commission on Autonomies from where we highlight the recommendation to not multiply the administrative organisation.

These Statutes recognised the existence of the province (and even in some few cases that of the Town Councils) as a possible non-direct Administration for the AACC. For doing so they arbitrated different administration techniques. Nevertheless, the statutory development foresees the implantation of an extended peripheral net of the AACC which competes in the territory with that of the local entities, what would provide that the first ones would carry the out in short-term the administration tasks.

As a speciality within this model, the catalán system seems to decline itself for a territorial articulation based upon three levels: autonomous, comarca, and municipal. That implies a clear marginalisation of the province as a government level, which has its fundamentals in the traditional importance of the comarca in the territorial organisation of the Community. Nevertheless, the model of internal decentralisation of the same Statute is quite blurred. That means that it would have to be an autonomic law which would try to concretise what subjects and on whom.

The posterior normative development has propitiated a competential seizing of the part of the Generalitat, as the implantation of the comarca that theoretically should be the beneficent in that process. Nevertheless and although they have chosen that comarcal model, the Catalán model is still undefined in what is his territorial organisation model. This is due to the fact that the autonomous peripheral Administration still articulates on the provinces, coexisting with a weak comarca while their regulatory legislation aspired to convert it to the structure which in at the service of the AACC for the administration of their competencies. It is, consequently, a centralist system with a few manifestations of formula of decentralisation through the comarcas

Another paradigmatic case is Andalusia, whose Statute chose initially the Councils as the indirect Administration for the AACC in their autonomous services. On the contrary, the posterior legislation of the Junta de Andalusia would finally decline itself for a centralised model, through a strong peripheral structure implanted all over the territory of the AC. This structure marginalizes the provincial Councils who hardly know of any competencies (culture, sports, and tourism) and allows the possibility to exert with delegations the exercises of other autonomies (social services and roads).

What is true is that for different reasons Andalusia has reproduced the state model, which consists in the basis of the autonomous Administration centring most of its competencies and a peripheral net that extends itself all over the territory, with almost no examples of indirect techniques for the Administration. Only by the way of the agreements some Town Councils has been able to develop some determined competencies.

To finish with, we should highlight the case of Aragón, which was modified at a later date, after the reform of its Statute in 1996. It consisted in defending the position of a real model of decentralisation in favour of the local entities. This Statute offered the possibility that the local entities could act, among other reasons because they did not know of the existence of a peripheral Administration to the AACC, what seemed to circumscribe the role of the Autonomous Administration to the functions of planification, programation, and co-ordination.

Nevertheless, also the later autonomous legislation would adopt a centralist system, through the creation of an own structure which would depend on the AACC, for the administration of their own competencies, putting to an end the decentralising attempts.

4. Finally, the uni-provincial model for internal decentralisation is characterised for a simplification of the administrative spaces. There are no provincial Councils; the organs of the Community absorb the organs of Administration and Government. That so, they count with two administrative levels, that are the autonomous and the municipal Administrations, what means that the possible decentralisation should be realised in favour of the Town Councils. Although there exists also a potestative level of supra-municipal character placed between the two mentioned before, and therefore, the possibility that the comarcas or other entities could exert competencies as well.

Nevertheless, and with some exceptions, the prevailing Administration still is the autonomous. The exception is found in Murcia, whose Law of territorial decentralisation and collaboration between the AACC and local entities, of 1983, contemplates instruments that allow the decentralisation in favour of the local entities. In that sense, it is possible that the local entities could assume the execution of determined regional tasks, focussing on that particular regulation which was made so early.

III. The development of the local policy

Though this situation is characterised by the structural differences, the lack of resources, the rare capacity of taxation, and the competence non-definition, the municipalities of the 80’s refused to become mere administrations that would carry out services in base to the possibilities that the legislation attributed them in a wide sense.

In that way and with the permission or consent of the superior administrations, which were immersed in the decentralising process from the State to the AACC, the development of the local policy was left in the hands of the municipal governments, just exerting a kind of control on
the political parties which were, from the beginning of democracy, who controlled the local representation leaving aside quickly and easily the independent candidatures.23

But, as we may expect, after taking into account the local diversity in Spain, the structural differences have ended up by an unequal development in function to the dimensions and the resources. So, while in the big and middle towns they have carried out real local and public policies, mainly in social services, housing, and promotion of the economical activities and employment, in other towns they do not even cover the minimal services implied by the basic legislation. In Spain they have tried to solve those lacks mainly by using the mancomunity formula, which not only violates the Local Autonomy but also supposes another recourse for the effective exercise of it.

In that sense we can stress that the legislation for the AACC, which are competent in the matter of territorial regulation, has fomented the use of associative formulae of voluntary character and of supra-municipal nature, as the use of the mancommunities as the consortiums where the participation of other administrations different from the local and also the participation of private companies are the characteristic notes.

From that perspective the necessity of a second level of local administration is evident. The increasing of these supra-municipal entities is an indicator of the fact that neither the provincial Councils, nor the comarca or its whole peripheral administration created by the regional governments, are enough in their present configuration to guarantee the provision of services and the Local Autonomy at the same time.

- The Federation Of Municipalities: Towards The Local Agreement

Until the beginning of the 90’s and although the said situation, it has been suggested24 that the absence of a strong municipal lobby has a bearing on the debility of the municipal demands. In reality from 1981 onwards, the Spanish Federation of Municipalities and Provinces was created, and later very similar associations were created in the different Autonomous Communities,25 but in the initial moments these entities are too much politicised and dominated by a series of political parties that act under the premise that the priority in the territorial organisation is the constitution of an Autonomous State.

That moment is also marked by the economical necessities of the municipalities whose public deficit reaches by the end of the 80’s dangerous levels that contrast with the necessities of the central government for a readjustment of the economical policy fixed by the European convergence plan.

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25 One of the reasons for the creation of the regional federations of municipalities is the inefficiency and sometimes the non-existence of institutionalized forums for the participation of the municipalities in the organs of the regional government.
Since the beginning of the 90’s the decentralising effort got stronger when it moves from
the political parties to the Federations of Municipalities\textsuperscript{26}. So the State Federation as those of
autonomic ambit live denouncing that the decentralising process in Spain, has been carried out
mainly in favour of the AACCs and in a very light degree in favour of the LLEE.

Although before 1993 it was claimed the necessity of a concrete political and normative
action, which was urgent and had the purpose of placing the municipalities in the place they own
as the mentioned constitutional principles assure, and also to allow a realistic adaptation of the
resources to the necessities. This demand was not materialised until the Extraordinary Assembly
of the SFMP when the demands were written down in a text that pretends to be the basis for
future negotiations with superior administrations\textsuperscript{27}.

Since the initial moments, the process of negotiation that is demanded from the local
instances is characterised for its complexity as it is configured as a three-ways negotiation
derived from the distribution of functions between the State and the AACCs. Therefore we can
define the local agreement as a \textit{bifronte}\textsuperscript{28} process of negotiation because if the government can be
responsible for the local economic self-sufficiency, the competencies that they demand are, with
few exceptions, of autonomous ownership.

After this first step, the federations of municipalities with regional ambit that have
emerged, have created their own documents with the aim of adapting general demands to their
necessities and possibilities.

\textit{- Evolution And Perspectives For The Local Agreement}

The process does not immediately acquire all the needed impulse, and also the local and
autonomous elections of 1995 collaborated in the postponement of any possible approach until
they were over\textsuperscript{29} and the new local and autonomous government were configured.

In the general elections of 1996, the actual party in the government had in its electoral
program the compromise to develop the Local Agreement which were closest to the municipal
demands. That compromise was fulfilled after the electoral victory on this same year.

The agreement is defined as a necessary agreement between the different public
administrations (state, autonomous, and local), and it is supported by a consensus between
administrations and political parties, with the aim of define what is the role of the EELL in the
autonomous state, redefine its competential regime, and respect and foment its autonomy. All
that through the mechanism that carry out an effective decentralisation for the competences, in
agreement with the principle of subsidiarity and under the guarantee of the financial sufficiency.

\textsuperscript{26} These associations of local entities appear as valid official interlocutors of the local Administration with the rest of
Administrations.

\textsuperscript{27} Which is more striking in the content of these Resolutions are the concrete proposals about what subjects can be
negotiated, at the same time that they demand more resources for the execution of their competences and the
 provision of their services, even those that not being part of their competences were usually efficiently provided
when the municipalities demanded them.

\textsuperscript{28} In the expression of the Constitutional Court, in sentence of December 23\textsuperscript{rd}, 1981.

\textsuperscript{29} In all the AACC both elections take place at the same time but in four, the so-called historic communities, since the
reform of the electoral legislation on that sense from 1993.
This process began with a row of contacts among the representatives of central government and municipalities—the Ministry for Public Administrations (MPA) and the SFMP. The result is evidenced in a series of documents that will conclude in April 1999 with the approbation of a bloc of legislative measures where the most relevant notes are the authorisation of a way by the Constitutional Court for the defence of the Local Autonomy, and the attempt to move to the municipal ambit an authentic vision of powers concretising the reach of the executive functions and reinforcing those of absolute control.

In a second phase the impulse has to come from the autonomic governments and from the federations of municipalities with regional ambit. Those two phases have not taken place one after another, when these measures were approved for the development of the local government, some AACCs have already negotiating experience but with few results from a practical point of view.

Up to the moment the advances but few, in some AACCs they have obtained the sign of a consensual document between the two implicated parts, and from there they can initiate the opportune legislative changes to carry it out. The programmatic and voluntarist declarations are still far from a real distribution of power.

We can neither talk of a generalisation in the agreement in the autonomous ambit. There where the process has already started, we have to highlight that all of them coincide in supporting the supra-municipal EELL. In general the decentralisation belongs to the Councils, except in two communities where they preferred to use the Comarca (smaller than the provincial ambit), or in municipalities with a minimal population. Precisely it is used as a solution to the infra-municipalism mentioned above, so that once it is overcome the local agreement is inserted in a real context.

We have to highlight in this particular theme that the positions of the political parties have been homogeneous, even though they had ideological differences. Until the end of the 90’s the parties in power in the AACC (Tories, Socialists, Nationalists, or Regionalist) have proved to have the same reticent position towards the Local Agreement.

IV. Conclusions

After slightly more than 20 years of local democracy, we can discuss some conclusions based on a double perspective. On the one hand, we can analyse the sufficiency of the basic juridical framework in order to explain the development which has taken place since 1985. On the other hand, we consider the results of local government action during this period.

Without undermining the importance of the poor constitutional design, the real problem has arisen due to inadequate institutional practice which has failed to overcome the problems associated with that design. From this perspective, the question can been located in the roots of a political and administrative culture which emanates from the constitutional base. For many

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30 From the Bases para el Pacto local, approved by the SFMP, that takes the resolutions of 1993 in 1966, to the Medidas para el desarrollo del gobierno local approved by the MPA in 1998. The government imposes a first phase of the local agreement considered as “too light” by many people.

31 Andalusia is an example in that sense, as the first document that corresponds to the demands of the Local Agreement since the Autonomous Government is in 1995.

32 The chosen size in most AACC begins with 20.000 inhabitants

33 The Sentences of the Constitutional Court are included on it.
years the centralist inertia of the previous regime had been reproduced and this gave rise to
tensions between central and regional government, and later, between both types of government
and local entities. The regional neo-centralism was manifested, from the very beginning, through
the creation of administrative structures and not through control mechanisms and it then went on
to establish a series of obstacles in order to slow down the process (in the same way in which the
State had behaved with the autonomous regions years before).

This action formed a part of a wider strategy put into practice by the institutional agents,
aimed at filling the packet of autonomy itself with content, ignoring the inevitable
interdependence which exists. This strategy goes beyond the distribution of responsibilities
designed within the territorial organisation, from the beginning of decentralisation and
subsidiarity (also since the local incapacity).

In fact, from a perspective which allows for the passing of time, we could speak of a
generalised implicit consensus about which topic was the most important in terms of the
territorial organization of power. What for some has been categorised as abandonment or
passivity on the part of the legislator with respect to the lack of regulation of local regimes, in our
opinion becomes permission when the action of political parties, independent of governmental
level or position within that government (whether it is in government or opposition) is analysed.
In the Spanish case, one cannot speak about a lack of knowledge of local administration action on
the part of superior administration, given that the political parties have been the factor of
cohesion in public action. The fact that political persuasion has coincided at different levels of
government has added to this knowledge.

The key role played by the political parties becomes clear when we analyze the evolution
of municipal associations whose action during the 1980’s was determined more by the fact that
its representatives belonged to a particular political party than by the municipal interests which
were being represented. If this were not the case then it would be difficult to explain the scarcity
of complaints on the part of these associations during this period. At the beginning of the 1990’s,
this partisan attitude allowed for the development of a new trend characterised by corporatism
when municipal representatives began to put forward points of view, in terms of certain
questions, contrary to their party line.

After the FEMP Resolutions in 1993, the recently born LA was paralysed as a
consequence of national political problems. This situation appears to have been resolved after the
1996 general elections which saw the victory of the Conservative Party after 14 years of Socialist
rule. However, this new impulse wasn’t a consequence of a change in political ideology, but
rather was a result of the pressure applied by municipal associations and the opportunity to take
advantage of the topic in electoral terms, which provided a favourable political climate for the
development of the PL.

Nevertheless, from the analysis of those documents which were agreed upon by both the
political parties and the municipal associations and those which were being negotiated, a
profound reflection on the problems related to the provision of public services, which arise due to
the capacity and the size of municipality, is necessary. Greater territorial entities than those of the
municipality have been favoured, a priori respecting the local autonomy which allows small and
medium size municipalities to be taken into account through supramunicipal associative
formulas. On the other hand, this situation will be of benefit to the ‘Diputaciones’ (Provincial
Councils), given that in some way, it revitalises the role of co-ordination and assistance which
they had been held over smaller municipalities until now. In any case, generally speaking, the
results up to the present moment are no more than programmatic and willing declarations far
from a true distribution of power.
With respect to the second question which has been posed, the performance or local governments during this period, if we consider the effort made by these entities in order to respond to the needs of local reality, the struggle to assume the responsibility for such needs has lead them to favour their role as managers over their political role, forgetting until very recently the importance of political leadership in local government.

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