Territorial Accommodation, Party Politics, and Statute Reform in Spain

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The term ‘accommodation’ refers to the capacity of states to contain conflict within the mechanisms and procedures embedded in existing institutional arrangements. During the first government of José Luis Rodríguez Zapatero (2004–8), the Socialist government had to accommodate the Catalan proposal to reform the statute of autonomy and the controversial plan to turn the Basque Country into an ‘associated free state’ with Spain. Whereas the Basque initiative was rejected, the approval of the Catalan statute impelled several regions to apply for greater autonomy. Statute reform is a complex multilevel negotiation process characterised by intense party competition and heterogeneous policy results.

Keywords: Decentralisation; Autonomous Communities; Nationalism; Basque Country; Catalonia

During the first government of José Luis Rodríguez Zapatero (2004–8) new statutes of autonomy were approved for the autonomous communities (ACs) of Valencia, Catalonia, Balearic Islands, Andalusia, Aragon and Castile-Leon. Whereas the controversial plan to turn the Basque Country into an ‘associated free state’ was rejected by the Spanish parliament several regional governments from Galicia, Castile-La Mancha, Cantabria and the Canary Islands failed to reform their regional charters.

Statutes of autonomy are organic laws that outline the policy functions and financial resources of the Spanish regions, and define their relationship with the central state (Aja 2003). Statute reforms are initiated and approved by a regional parliament with a qualified majority and are then negotiated between a delegation from the regional assembly and the Constitutional Committee of the Congress of Deputies to decide its final form. All autonomy statutes must be ratified by each house of parliament (Congress of Deputies and Senate) with an absolute majority. If an agreement is reached, the resulting text is sometimes submitted to a referendum of the regional electorate (if the statute of autonomy requires so). In other words, the process of statute reform is driven by regional interests but its ultimate approval is negotiated at the state level. The multilevel character of statute reform means that in the process...
of changing the regional status quo several tiers of government, institutions and political parties can act as veto players (Tsebelis 2002, p. 136).

The complex interaction of actors whose support is necessary for the legislation to be approved (governments, parliaments, working committees, etc.) determines the content of specific agreements but also the pace of decentralisation. Political parties are present in all of these institutions and they actively seek to influence the decision-making process in multiple arenas. In particular, regional parties have played an important role in extracting territorial reforms from the central government in exchange for securing parliamentary majorities. The Spanish electoral system favours parties who have a regional concentration of votes and both left-wing and right-wing central governments in a minority have relied on the parliamentary support of nationalist parties to formulate state-wide policy outcomes (i.e. budgets). During the last Partido Socialista Obrero Español (PSOE, Spanish Socialist Party) government of Felipe González (1993–96) and the first Partido Popular (PP, Popular Party) government of José María Aznar (1996–2000), nationalist parties of Catalonia, the Basque Country and the Canary Islands enjoyed privileged access to the central state while the main opposition party accused the incumbent government of yielding too easily to regional demands for further autonomy. The first PSOE executive of Zapatero was no exception to this rule and it was dependant on the parliamentary support of the Eurocommunists of Izquierda Unida (IU, United Left) and the Catalan nationalists of Esquerra Republicana de Catalunya (ERC, Republican Left of Catalonia). Inter-party bargaining and coalition-building between regional elites and Spanish governments were key in the latest wave of decentralisation. Having said that, statute reform is more than a series of bilateral agreements bargained by rational actors. The two main state-wide parties, the PP and PSOE, have tried to manage the open-ended nature of devolution differently, as they hold different views of the kind of federalism to which Spain should aspire.

The argument presented here is structured as follows. A first section argues that the arrival of the PSOE to power in 2004 coincided with the emergence of bottom-up proposals for statute reform. In stark contrast to his predecessor, Zapatero was able to put into practice a skilful set of territorial policies that accommodated political conflict within the mechanisms and procedures embedded in Spain’s ‘state of autonomies’. A second section focuses on the proposal for a ‘new political statute’ approved in the Basque regional parliament and argues that its rejection established parameters for future statute reform. A third section highlights the importance of the Catalan statute in triggering a new wave of decentralisation characterised by its bilateral and asymmetric character. A fourth section provides a comparative analysis of the statute reforms that followed the Catalan model. Given that Spain lacks an institutionalised forum where central and regional governments can negotiate, this paper argues that the last wave of territorial reforms was largely driven by party politics in a multilevel setting. A fifth section of concluding remarks summarises the main findings of the paper.
Territorial Politics, 2004–8

The PSOE’s unexpected victory in March 2004 coincided with a growing clamour for more autonomy from Spain’s self-governing regions. The challenge for Zapatero was to satisfy these demands for reform without allowing his political opponents to claim that the country’s political geography was falling apart. During his investiture speech, Zapatero promised higher levels of cooperation and coordination between the different levels of government and indicated his willingness to meet with the presidents of each one of the ACs regularly and that a first collective meeting would be held before the end of 2004 (El País 2005). The first ever Conference of Regional Presidents (Conferencia de Presidentes Autonómicos) was held a few months later in the Senate with two issues dominating the agenda. First, the Socialists kicked off an old debate about reforming the upper chamber and converting the Senate into a body of territorial representation of Spain’s 17 autonomous regions. In terms of composition, there was a proposal to increase the number of senators elected directly by the ACs and, with regard to functions, the Senate was likely to acquire a leading role in initiating legislation relating to the ACs. Second, Zapatero argued he was prepared to be more flexible than his predecessor, José María Aznar, in reforming the statutes of autonomy provided there was broad parliamentary support for the adjustment and that they did not violate the basic tenets of the constitution. This meant greater autonomy for Catalonia and the possibility for the Basque government to discuss the controversial plan of its regional premier, Juan José Ibarretxe, to gradually dissociate the Basque Country from the rest of Spain.

The first meeting of the Conference of Regional Presidents did not produce any specific outcome but it was perceived as an event of historical importance by its participants. The central government and the regions had few institutional forums for intergovernmental cooperation and it was hoped that coordination between the centre and the peripheries would spill over to other policy areas. All regional presidents attended the event, including a reluctant Basque premier, and there was hope that issues of interest to the ACs, particularly a new funding system, would be dealt with in future meetings. The conference was held in an atmosphere of institutional respect and cordiality, which contrasted with the polarisation that characterised the political life of the country. The PP, which had been swept out of office by its mishandling of the aftermath of the Madrid blasts on 11 March 2004, continued to argue that the elections had been stolen from them and that Zapatero was an ‘accidental prime minister’ who would never have won had there been no bombs. PP leaders continued to deny the legitimacy of the PSOE government during the entire legislature and pushed for conspiracy theories under which the Basque terrorist group Euskadi Ta Askatasuna (ETA, Basque Homeland and Freedom) (not al-Qaeda) was involved in the massacre, despite evidence to the contrary.

The climate of political polarisation and social tension (crispación) that permeated the first legislature of Zapatero was articulated by the Popular Party with the intention of changing voter preferences and reducing the distance that separated it
from the PSOE in opinion polls. The strategy of polarisation was based on the mobilisation of voters ideologically attached to the conservative party through a series of divisive issues such as terrorism (domestic and international) and the politics of territorial accommodation. Three issues—the Basque peace process, the Catalan statute reform and the Ibarretxe Plan—dominated the airwaves during 2004–8 and divided both parliament and civil society into camps holding opposing views. As the left-leaning newspaper *El País* indicated, by the end of the first Zapatero legislature in 2008, the majority of parliamentary questions addressed to the government by the leader of the opposition PP, Mariano Rajoy, to Prime Minister Zapatero were focused on the terrorism of ETA (21), the Catalan autonomy statute (15) and, at some distance, general issues (13) and the economy (11). Out of a total of 107, the Catalan and Basque issues accounted for 33 per cent of questions addressed to the Prime Minister and confirmed the PP and the PSOE in their antagonistic positions.

**The Ibarretxe Plan**

The first nine months of the PSOE government were characterised by the promotion of policies (withdrawal of Spanish troops from Iraq, sanctioning of gay marriage, protection of women against domestic violence, etc.) largely supported by its parliamentary allies and the Spanish public. In the eyes of the weekly *The Economist*, these policies marked ‘the natural end of the first era of transition’ and the beginning of a ‘second era—a transition from a simple democracy to a more complicated, more sophisticated one’. Other authors argued that the Zapatero government was launching a ‘second transition’ or new phase of democratic development that would ‘modernise Spain’ (Mathieson 2004, p. 10) and deal with the ‘unfinished business of the transition’ of the 1970s (Woodworth 2005, p. 69). However, by December 2004, the Prime Minister was forced to take a policy detour and face the first constitutional crisis of his mandate when the Basque parliament approved the ‘Proposal for a Political Statute of the Community of the Basque Country’, also known as the Ibarretxe Plan, named after the incumbent regional president (*lehendakari*), Juan José Ibarretxe, of the Partido Nacionalista Vasco (PNV, Basque Nationalist Party). Ibarretxe’s initiative sought to reform the 1979 Basque autonomy statute (Statute of Gernika) and substantially increase its autonomy by gradually dissociating the Basque Country from the rest of Spain and, possibly, calling for a referendum on becoming a ‘free state associated with Spain’. The Basque President’s initiative suggested that symmetric federalism or *café para todos* (coffee all round) should be abandoned in favour of a more flexible, confederal model that recognised the sovereignty of the Basque Country and granted it almost total autonomy. The Ibarretxe Plan, which pursued attracting the more radical Basque nationalist vote to the PNV, deliberately created instability by suggesting some kind of negotiated independence without clearly stating it. The plan had officially been presented in the Basque parliament on 25 October 2003 and, in spite of two appeals submitted to the Constitutional Court and the High Court of the Basque Country which delayed the parliamentary process,
the text was discussed in the regional chamber during the following 14 months. The proposal was mainly defended by the nationalist forces that made up the PNV-led tripartite regional government whereas the opposing camp was made of the main state-wide parties (PP and PSOE) and the radical nationalists of Sozialista Abertzlaeak (SA, Socialist Patriots), which had inherited the structure and support of Batasuna, a party banned by the Spanish Supreme Court in 2003 (Instituto de Derecho Público 2005, p. 515).

The plan to give the Basque Country the political status of ‘free association’ with Spain was narrowly approved in the Basque regional parliament on 30 December 2004 after it received the unexpected support of three radical nationalist deputies. Both the PP and the PSOE had presented complete amendments (enmiendas a la totalidad) and had opposed the proposal from the outset whereas SA, the mouthpiece of ETA, objected to the proposal on the grounds it was not ambitious enough. However, on the day the plan was voted, three out of the six SA deputies voted in favour of the proposal, hence bringing the total number of votes in favour to 39. The remaining 35 votes belonged to the PP and the PSOE (who argued that the plan was a challenge to Spain’s territorial integrity), and three radical deputies from SA. In other words, the plan was approved in the regional parliament by Basque nationalist parties by a narrow margin against the opposition of the regional branches of the PP and the PSOE. Basque nationalist forces did not claim victory, as they knew that any proposal for statute reform also had to go through the Spanish parliament, where the concerted opposition of the main state-wide parties could derail the project of creating a Basque freely associated state. On 1 February 2005 and after eight hours of debate, the Ibarretxe Plan was rejected by the combined efforts of the PSOE and PP in the Congress of Deputies and prompted the Basque regional government to bring forward the date of the regional elections by several weeks.

The status of ‘free association’ had aimed to introduce an independent judiciary, a penal system, devolved responsibility for social security and the power to sign bilateral international agreements. Only defence, customs and foreign policy would remain exclusive competences of the central government. In fact, the proposal attempted to change the political nature of the Basque autonomous community unilaterally by breaking away from the rest of Spain. The bill had an ambitious and clearly secessionist preamble but the rest of the articles were technical and resembled a statute of autonomy. The project could be interpreted as an unofficial electoral manifesto with which the moderate nationalists of the PNV wanted to attend the 2005 regional elections and incorporated a pseudo-separatist agenda (giro soberanista) with the idea of de-escalating the Basque conflict. According to President Ibarretxe, the project would allow Basques to decide their own future and would leave the terrorist group ETA with no justification for its existence. The PSOE and PP vehemently opposed changing the political status of the region and argued that the Basque Country enjoyed a much greater degree of autonomy (especially on taxation matters) than any other region in Europe and that no concessions should be given to ETA (Keating & Bray 2006).
The plan of the Basque President was an ambitious programme with a dubious future from the moment it was conceived. First, the positions of Ibarretxe and virtually all of Spain’s state-wide political parties were far apart and it was difficult to see how there could be any compromise on greater autonomy when Spanish elites perceived the plan to be a stepping stone towards outright independence from Spain. Mariano Rajoy, the PP leader, called the plan ‘the biggest challenge to national unity since 1978’ whereas Prime Minister Zapatero said it was secessionist, unconstitutional and incompatible with Europe. Second, the plan was approved by a narrow margin in the regional parliament and support for the plan was limited to Basque nationalist parties. Ibarretxe’s PNV and its allies in the government were in a minority (by one seat) and the Basque President could hardly claim he was representing a widespread parliamentary demand. Third, Ibarretxe’s insistence on the Basques’ right to self-determination did not help parliamentary approval of the bill. The draft plan needed to be rewritten in accordance with articles 147.3 and 151 of the constitution which established that the document had to be negotiated in the Spanish parliament prior to its approval. Nevertheless, Ibarretxe provocatively claimed that unless the text was left intact and the ‘will of the Basque people’ was respected he would proceed to unilaterally call a referendum to ratify the text. The referendum, which was never called, would have continued the deadlock between the regional Basque government and the Socialists in Madrid. In the worst-case scenario, holding an illegal referendum could have justified invoking article 155 of the constitution, which could have led to the dissolution of the regional government and the beginning of legal action against the Basque President.

The rejection of the Ibarretxe Plan was followed by the Basque regional elections of 17 April 2005, indicating the close links that existed between statute reform and party politics. The electoral results were seen as a sort of plebiscite in which parties would be compensated (or punished) for the way they dealt with the Ibarretxe Plan and would determine future political strategies regarding statute reform. In the end, the PNV, which had ruled the autonomous community since 1980 and had witnessed how the plan of the regional president was defeated in Madrid, obtained disappointing results. The PNV was the party with the most votes (463,873) but it lost 144,000 votes (in a country of less than two million voters) and four seats (from 33 to 29) in the 75-seat chamber. The Basque branch of the Popular Party (PP País Vasco), which took an even stronger line than the Socialists against greater autonomy for the Basque Country, lost four seats. The Basque branch of the Socialist Party (PSE-EE, Partido Socialista de Euskadi-Euskadiko Ezkerra), who had argued that the Ibarretxe plan had to be stopped in a non-confrontational manner so as not to upset moderate Basque nationalists, obtained their best electoral results in years, gaining five seats (up to a total of 18 seats), hence becoming the second political force in the Basque parliament, a position previously held by the conservative Popular Party. The PSOE’s three-goal strategy in the elections—stopping the Ibarretxe Plan, defusing the tensions between the central and regional government and strengthening the Socialist Party’s results—was a success and, on top of confirming Zapatero’s image as a negotiator and a
conciliator, made regional government change possible. Under the leadership of Patxi López, secretary general of the Basque Socialists since 1997 and candidate for the regional presidency, the PSE grew stronger and, after the elections of 1 March 2009, López was elected lehendakari, effectively ending 30 years of Basque nationalist rule in the AC.

The Catalan Statute

Zapatero’s unexpected victory in the March 2004 general elections raised great expectations in Catalonia, where a three-left-wing-party coalition—Partit dels Socialistes de Catalunya (PSC-PSEOE, Socialist Party of Catalonia), ERC and Iniciativa per Catalunya-Verds (ICV, Initiative for Catalonia–Greens)—led by the Socialist Pasqual Maragall had been working on a new regional charter since November 2003 when they took control of the Catalan regional executive (Generalitat). Catalan politicians had long complained that the region contributed too much to the Spanish economy (around 19 per cent of gross domestic product [GDP]) and that the systematic fiscal imbalance with Spain was hampering the region’s economic growth. According to the Generalitat, Catalonia contributed about 25 per cent of Spain’s total taxes whereas the regionalised investment of the central government in Catalonia represented around ten per cent of the total investment in Spain. In other words, Catalonia had a fiscal deficit between seven and nine per cent of Catalan yearly GDP. In spite of the fact that the nationalists of Convergència i Unió (CiU, Convergence and Union) had controlled the regional government between 1980 and 2003, the first ever left-wing regional executive since the restoration of democracy decided to tackle Catalan resentment over its net contribution to the state budget. Few analysts believed that greater autonomy could be devolved under the absolute-majority government of Aznar (2000–4), who rejected any proposal that could alter the post-Franco constitutional status quo, but Zapatero’s arrival in power contributed to the decision to launch a Catalan parliamentary working committee in charge of drafting a new statute. If the resulting text was approved in the regional chamber it would then have to be approved and possibly re-negotiated in the Congress of Deputies to finally be approved by referendum by the Catalan people. Party politics seemed to play in favour of the Catalan initiative. The Socialist Party controlled both the Spanish and Catalan governments and its partners (ERC and ICV) supported both executives. However, the Popular Party strongly opposed the initiative at the state level and argued that a multilateral agreement in which all ACs were involved (instead of a bilateral one) should reform the state of autonomies. The nationalist conservatives of CiU supported the idea of reforming the statute as a means of addressing the issue of public financing, especially since the regional healthcare service had been brought to its knees by the dramatic surge in the immigrant population since 2000 (Gallego et al. 2005, p. 108; Colino 2008, p. 579).

When, on 15 April 2004, Zapatero was invested with office he promised ‘a more sympathetic approach to Catalan demands for greater devolution including a new
Statute of Autonomy and a better financial arrangement’ (Guibernau 2004, p. 218). He also promised to look favourably on reforms of regional autonomy statutes that had the backing of a majority of parties represented in regional parliaments as long as they did not violate the Spanish constitution. In the following months, a debate over a new statute was observed with concern from Madrid as the Catalan region, with a population of seven million and one-fifth of Spain’s GDP, demanded higher levels of autonomy. The two most divisive issues were the dispute about the region’s revenues and the definition of Catalonia as a nation. First, the Catalan government was pushing for the right to levy its own taxes through a Catalan tax agency and set its own limits on the contribution to the Spanish exchequer. Second, the draft preamble of the charter called Catalonia a ‘nation’ and not a ‘nationality’, which was the term used in the 1978 constitution. The terminology was not just a question of contentious semantics, as many Spaniards feared that if Catalonia became a ‘nation’, this could open the door to exercising the right to self-determination and, eventually, political independence from Spain.

The new Catalan statute (Nou Estatut) was approved in the regional parliament by an overwhelming majority of deputies (120 out of 135). All political parties with seats in the regional chamber voted in favour of the legal text on 30 September 2005 except the Catalan branch of the Popular Party, who argued that the new statute undermined national sovereignty and the unity of Spain. In spite of the initial jubilation, experienced politicians observed that the toughest was yet to come, as the text had to be approved as an organic law in the Spanish parliament. In spite of Prime Minister Zapatero’s promise to support anything that came out of the autonomous parliament, Catalan parties expected the charter to be watered down in a few policy areas, especially funding and Catalonia’s definition as a nation. Once the draft got to Madrid the articles devoted to funding and its national character were amended by the parliamentary Constitutional Commission headed by the Socialist Alfonso Guerra in order to fit into the ‘constitutional framework’. In the final draft, the statute did not call Catalonia a ‘nation’ but the preamble recognised its desire to be called so. In this respect, the new statute was still circumscribed by the 1979 Catalan statute of autonomy (which recognised Catalonia as a nationality), pursuant to the 1978 Spanish constitution (which defined Spain as a nation). With regard to funding, the new statute gave Catalonia a greater share of taxes raised in its region but not the control over them that was sought or the right to decide what proportion should be transferred to Madrid. The region did not get its own tax agency but it received 50 per cent of the personal income tax collected, up from 33 per cent, and also 50 per cent of value added tax (VAT) (formerly 35 per cent), while Spain’s investment in infrastructure in the region would be decided in accordance with the contribution made by Catalonia to Spain’s GDP over a period of seven years. Finally, it was also agreed that the model could be extended to Spain’s other regions in order to appease those who complained Catalonia was receiving privileged treatment.

After the text was revised, the Spanish Congress of Deputies approved the statute by 189 votes to 154 on 30 March 2006. Three months later a referendum was held in
which 74 per cent of Catalan voters approved the new statute, against 21 per cent who rejected it. The abstention rate, however, was high at 50.6 per cent, suggesting a majority of Catalans were indifferent to the new charter or tired of a process that had monopolised political debate for over two years. The negotiation of the Catalan statute inflamed passions right across the political spectrum, rattled some sabres in the armed forces, pitted the Catalan Socialists against the Socialist-run national government and led to the collapse of the coalition government in Catalonia that sponsored the charter. The new Catalan statute also led to the ousting of Pasqual Maragall, the region’s Socialist premier and former mayor of Barcelona, who was replaced by José Montilla, also a Socialist but a less charismatic leader born in Extremadura who became the first non-ethnic-Catalan president of the Generalitat in November 2006 (Balcells & Roig 2008).

The deliberation, approval and ratification of the Catalan reform was followed with interest from the Basque Country. During the time the text was negotiated nothing else could be done by expectant Basque nationalists but hope for a window of opportunity to launch a similar reform of their regional charter. After all, the Spanish government headed by Zapatero was not willing to open another damaging negotiation that could endanger its project for a plural Spain where regions, nations and nationalities could display different levels of self-government, and give the Popular Party additional ammunition to grumble over the ‘disintegration of Spain’. The idea of a plural Spain (España plural) had been first launched at Santillana del Mar (Cantabria) on 30 August 2003, as a blueprint to consolidate Spain as a decentralised state through the reform of the Senate into a territorial chamber, the incorporation of the ACs into European Union (EU) councils and the reform of several statutes of autonomy. The Catalan charter was received more cordially than the Basque plan for an ‘associated free state’ and it was used by the Spanish government to set parameters for future statute reforms. With the Catalan reform, the Zapatero government intended to give an indication to the whole spectrum of Basque political elites that through political negotiation much was possible but that, unless ETA abandoned political violence, no statute reform could take place.

The Catalan reform confirmed the asymmetric territorial organisation of Spain, where some regions have more autonomy than others, and reinforced the competitive dynamics between ACs. The process by which the system of 17 autonomous regions was introduced in the 1970s and 1980s was incremental and uneven with, some regions gaining autonomy earlier than others and some regions having more autonomous rights than others (Field & Hamann 2008, pp. 17, 207). Because competencies were not rigidly defined, the regions bargained the extension of their competences in bilateral relationships with the central government. This clearly happened between 1993 and 1996 under Felipe González and between 1996 and 2000 under José María Aznar. The same dynamics were observed between 2006 and 2008 and, as the next section explains, regional elites in Catalonia acted as pioneers and several other regions benefitted from an already established path to further autonomy (Colino 2009).
A Demonstration Effect

As pointed out by the political scientist Josep Colomer, the absence of formal mechanisms for joint national decision-making has traditionally encouraged ‘competitive bargaining’ between regional leaders, who exert pressure on the national government for greater fiscal resources and enhanced policy competences (Colomer 1998). In this sense, the Catalan statute became a positive example and paved the way for other regions in a demonstration effect that highlighted its paradigmatic character (Baldi & Baldini 2009, p. 108). Between 2006 and 2008, revised or amended statutes of autonomy aimed at reinforcing the ACs’ powers came into force in the Valencian Community, Andalusia, Aragon, the Balearic Islands and Castile-Leon. Whereas six ACs reformed their statutes under the first Zapatero government the remaining 11 left their charters untouched. The PSOE government hoped to use the ‘Catalan model’ to establish the parameters for future decentralisation but regions like the Canary Islands, Castile-La Manche and Galicia were unable to follow the Catalan example. Other regions awaited the ruling of the Constitutional Court on the Catalan statute before launching a process of statute reform which could be amended by future jurisprudence.

The six reforms approved during 2006 and 2007 started a new phase in the Spanish process of decentralisation. The reform of statutes of autonomy during previous waves had received the support of the main state-wide political parties but the last wave of reforms occasionally encountered the opposition of the Popular Party. The conservatives challenged the Catalan statute, which the PSOE hoped to use as a model, and took the case to the Constitutional Court, the highest court in the land. The lack of a roadmap agreed with the main opposition party meant that this was an unstructured wave of reforms triggered by regional initiatives. Contrary to what had happened in previous decades, the government’s strategy for reform and collaboration with opposition parties was improvised in accordance with unfolding political events.

In terms of content and procedures, the new statutes presented some interesting similarities. First, the statute reforms of 2006 and 2007 abandoned the previous logic of partially amending previous texts in favour of entirely new legal documents. Following the example of Catalonia, which replaced its 1979 statute of 57 articles with 227 new articles, the majority of ACs approved long statutes of autonomy which defined regional competences with high precision. There was some variation, with Catalonia and Andalusia shielding competences (blindaje de competencias) from the central administration and defining the different varieties of regional competences—exclusive, shared or executing—and other regions like Valencia offering a less exhaustive list of areas of jurisdiction. Thus, entirely new statutes with similar structures were approved in Catalonia, Balearic Islands, Andalusia, Aragon and Castile-Leon whereas Valencia’s short statute (81 articles) responded to the old logic of partial amendment.
Second, several statutes made reference to the historical origins of the region. Whereas some ACs defined themselves as ‘historical nationalities’ (Balearic Islands, Andalusia and Aragon) or ‘historical and cultural communities’ (Castile-Leon), one region (Catalonia) defined itself as a nation. After intense negotiation, the word ‘nation’ was displaced to the preamble of the Catalan statute in order to avoid any clashes with the 1978 constitution which, in a feat of semantic engineering, had defined Spain as a nation of nationalities and regions. The ACs with a language of their own set in place policies for language protection and promotion. In the Catalan-speaking regions, the co-official status of Spanish and Catalan was maintained but numerous articles favoured the latter as the most preferred vehicle of communication. The Balearic Islands and Valencia recognised the Catalan language as part of their cultural heritage and the Catalan, Aragonese and Castile-Leon statutes contained measures for the protection of minority languages (Aranese, Aragonese and Leonese) in their respective territories (Keating & Wilson 2009, p. 547).

Third, all of the new statutes of autonomy contained provisions for the ACs to develop a greater role in foreign affairs. Legal experts had long complained that there were few mechanisms of horizontal cooperation between the regional and central administrations and that the ACs were given a minor role in European negotiations that affected them directly. From December 2004 onwards, however, the ACs were given a greater role in meetings of the EU Council of Ministers and, with the new statutes, they were allowed to sit in preparatory meetings of both the EU Council and the Commission when the issues debated affect directly the exclusive competences of the ACs. This increasing coordination between the regional and central government was a decisive step towards a more cooperative form of federalism which, the ACs hope, will spill over to other policy areas.

Fourth, the multilevel character of statute reform included the participation of numerous parties, institutions and civil society organisations. In terms of procedures, all of the statutes were approved in both the regional parliament and the Spanish parliament and, in the case of Catalonia and Andalusia, they were also ratified in binding referendums. Since the reforms had to be approved at both the regional and central levels of government, intense cooperation and political bargaining took place amongst policy actors. There were problems of coordination among the different levels, due to pressure of time, different rationales of governance and party interests, but the depth of the statute reforms involved a higher level of coordination than in previous phases.

Fifth, cross-party support for the regional initiative was predominant in the regional chamber but, once it got to the Congress of Deputies, statute reform was used by state-wide parties for political expediency. As pointed out by Michael Keating and Alex Wilson (2009), the last round of statute reforms was more complicated than previous rounds, divisions emerging at both the centre and periphery as state-wide and territorial parties adopted multilevel strategies and displayed varying degrees of political opportunism, as can be seen in the Catalan and Andalusian cases. In Catalonia, the centre-right party, the Partido Popular, opposed the new statute from
the very beginning and forced the president of its Catalan branch, Josep Piqué, who had developed a good relationship with Catalanist forces, to reject the charter in the regional chamber. The conservatives’ ‘no’ vote in the Congress of Deputies and their repeated calls for the Constitutional Tribunal to intervene contrasted with the strategy adopted in the Andalusian case, where, initially, the conservatives joined the Partido Andalucista (PA, Andalusian Party) in opposing the charter at the regional level. Whereas the PA rejected the charter for lack of ambition, the PP argued that the text (which clearly mirrored the Catalan statute) would destabilise Spain. However, when the statute reached parliament in Madrid, the PP voted in favour of the Andalusian statute. In other words, the Catalan and Andalusian statutes had similar charters and yet the strategies followed by the conservative opposition in each case were dissimilar. From the point of view of the PP, it was clear that a rejection of the Catalan charter would have been much more damaging to the Zapatero government than a rejection of the Andalusian charter. The PSOE was receiving the parliamentary support of the Catalan ERC in Madrid whereas the Catalan Socialists were in control of the Generalitat thanks to a regional coalition of the PSC, ERC and ICV. Had the Catalan statute not prospered, the Socialist-led government in either Madrid or Catalonia could have collapsed. On the other hand, there was little the PP could do in Andalusia, a Socialist stronghold, in which the statute reform had the overwhelming support of the electorate.

Sixth, the statute reforms brought important changes in the conduct of federalism and intergovernmental relations. Spain’s process of decentralisation has traditionally been ‘vertical’ (i.e. between the centre and the ACs) but, under Zapatero, the ‘horizontal dimension’ has gained in importance (i.e. negotiation between different ACs over the allocation of power and resources). With regard to vertical cooperation, the two most important intergovernmental forums are the Conference of Regional Presidents, first launched in 2004 and the Sector Conferences. The Conference of Regional Presidents has met only three times (2004, 2005 and 2007) but the Sector Conferences have a much longer history (Grau 2000; Börzel 2001). These two conferences are not institutions of decision-making but rather a forum for discussion where the 17 autonomous communities and the state play a competitive game. In addition to the conferences, the new statutes of autonomy have consolidated the direct and indirect mechanisms of coordination with the central state introduced in 2004, in particular with regard to foreign affairs. This means that the ACs can now participate with the central government in the European Council and European Commission meetings (Instituto de Derecho Público 2006, p. 19; 2008, p. 108). With regard to horizontal cooperation, it needs to be stated that cooperative mechanisms between the centre and the regions are wishful thinking more than a current reality. At the moment, the main intergovernmental arena for ACs to make joint decisions are the agreements (convenios) which need to be submitted to the Senate for approval. The number of convenios has increased between ACs that share borders and want to solve ‘neighbourhood issues’ such as fighting fires, immigration or research and development (Instituto de Derecho Público 2007, p. 29). More informal methods of
collaboration such as protocols and declarations are also signed bilaterally by ACs and others are in the making. For example, some of the ACs have put forward proposals to reformulate the existing Conference of Presidents and Sector Conferences into organs of horizontal cooperation where politicians and civil servants of the 17 ACs could debate unresolved issues (problems of jurisdiction, spending power, etc.) and issue accords, declarations and framework agreements. The proposal aims at introducing regional intergovernmental cooperation as seen in the cases of the German Conference of Ministers, the Austrian Conference of Länder Presidents, and the Swiss Conference of Cantonal Governments.

Conclusion

The Socialist administration of José Luis Rodríguez Zapatero accommodated a series of statute reforms during its first legislature (2004–8) which confirmed the bilateral and asymmetric nature of Spanish federalism. In policy terms, the departure from previous conservative governments was clear. During the two Aznar governments (1996–2000 and 2000–4), there was no attempt to rewrite any of the existing statutes of autonomy and the project of turning an institutionally weak institution like the Senate into a chamber of territorial representation was—once again—not completed. The conservative party idealised the Spanish transition process, rejected all attempts to improve its building blocks and tried to restore the central government to a politically dominant position (Grau 2005). The refusal to reform the hallmark of the transition, the 1978 constitution, led to the conceptualisation of ‘constitutional patriotism’, a version of Spanish nationalism aimed at defending the post-Franco status quo from demands coming from the periphery (Muro & Quiroga 2005). The reification of the magna carta separated the legal text from its original context and placed it in another one where it acquired an aura of sacredness. The statutes of autonomy, which were derived from the supreme norm, were also bestowed with attributes of inviolability and consensus that in origin they did not have, hence making their reform very difficult. As pointed out by Omar Encarnación (2008, p. 151), for the Popular Party, the post-transition settlement was the final destination for Spain; for Zapatero, by contrast, it was a point of departure.

The general elections of March 2004 which returned the Socialists to power was hailed by some scholars as the beginning of a second transition. In the area of territorial politics, however, there was much continuity in the patterns of both centre–periphery relations and party politics. The process by which statute reforms took place had its roots in the period that preceded the first Zapatero government and there was no dramatic break with the past. Having said that, political decentralisation experienced a qualitative jump under the Socialists as policies of territorial accommodation were negotiated in bilateral forums between the central government and the regions. While these developments reflect a greater degree of institutionalisation in Spain, it is important not to exaggerate the importance of these ad hoc and fluid mechanisms. In spite of the increasing collaboration, the institutions of intergovernmental relations
in Spain remain, compared with some other federations, relatively ad hoc and under-institutionalised. The ACs have become aware of the constitutional difficulties of turning the Senate into a territorial chamber and have pushed for the creation of new mechanisms of horizontal collaboration while they work with neighbouring regions on trans-border issues. These political movements could be seen as the result of Spain’s lack of institutions capable of avoiding the political game and articulating stable policies of decentralisation.

The politics of territorial accommodation of the first Zapatero government confirmed the multilevel dimension of statute reform and the embeddedness of the centre–periphery cleavage. Political initiatives for reform came from the regions but policy actors operated and had interests at more than one level. For example, territorial minorities reasserted their demands for autonomy within established opportunity structures, that is, spaces offering several possibilities of action, while competing with other regions and seeking to participate and influence policy-making in Madrid. The failed Ibarretxe Plan and the Catalan statute consumed much of the political capital of the Socialists and, together with the Basque peace process of 2006 and the politicisation of the terrorist attack of 11 March 2004, were among the issues used to create a climate of political polarisation (crispación) between the Socialists and the conservatives. In spite of its political costs, the Catalan statute of 2006 helped launch a new wave of reforms, and several other regions began a dynamic process of emulation. In total, six regions managed to carry out successful statute reforms and others are likely to follow in the near future. Following the Socialist victory in the general elections of March 2008, pending reforms will be affected by a new political scenario that revolves around the economic crisis and by the jurisprudence of the Constitutional Court over the Catalan statute which will establish parameters for future decentralisation.

Notes


[2] ‘Peripheral’ or ‘regional nationalists’ in the Spanish context refer to those who advocate greater autonomy or even outright independence from the Spanish state.

[3] The composition of both houses of parliament is remarkably similar and the Senate or upper house cannot be described as a chamber for territorial representation. The Congress of Deputies is elected through a modified form of proportional representation whereas the Senate is elected through a combination of majoritarian electoral laws and indirect selection by the regional legislatures. The vast majority of senators are elected on the same territorial basis as members of Congress and each province is allocated four senators, combining to provide 208 of the 256 seats. The remaining seats are appointed by the regional parliaments. Each AC must appoint one senator by default plus one more per million inhabitants within its boundaries. This adds up to between 44 and 48 seats, depending on the year.

[4] The most established devices of cooperation between the central and regional governments are the Conferencias Sectoriales (Sector Conferences) and the Acuerdos de Cooperación entre el Estado y las Comunidades Autónomas (Cooperation Agreements between the State and the
ACs). In addition, some level of institutionalised shared rule can be found in a few policy areas (education, fiscal and financial policy, etc.) where central and regional interests are coordinated, represented and protected. See Beramendi and Maíz (2004, pp. 136–137).

[5] A new model of funding for the ACs was approved on 15 July 2009. Under the new regime, 58 per cent of special taxes (e.g. petrol and tobacco) and 50 per cent of the income tax and VAT are transferred to the ACs (El País, 19 July 2009).

[6] On the gap between the two main state-wide parties and the fragility of the PSOE’s electoral support, see Barreiro and Urquizu-Sancho (2007).


[12] The working committee was made of deputies belonging to the five political parties with seats in the chamber (CiU, PSC, ERC, PP and ICV) and was assisted by the Institut d’Estudis Autonomics (Institute for Autonomy Studies), which initially provided draft statutes and documents.

[13] Notably the one belonging to General José Mena Aguado, who, seeing himself as a guardian of national unity, publicly exhorted his fellow officers to defend Spain’s territorial integrity against the prospect of the government giving ‘too much’ autonomy to Catalonia. The Economist, ‘Spain and Catalonia. Bad echoes from the past’, 14 January 2006.


References


