



ISSN: 2036-5438

**Answers to Spanish centrifugal federalism:  
Asymmetrical federalism versus coercive federalism**

by

Esther Seijas Villadangos\*

Perspectives on Federalism, Vol. 6, issue 2, 2014





## Abstract

The developing debate in Spain about its conversion into a federal State has now acquired an even greater relevance. Federalism, as a process of federalization, is subject to several descriptions with different intentions: the federalization of Spain implies a previous transition to federalism from a virtual field to a real field. We will review the main features in this transition. Post-conversion, we consider that there are two basic opposite alternatives: asymmetrical federalism and coercive federalism.

In our discourse about how asymmetrical federalism could be implemented in Spain we will focus on the risk of the evolution of asymmetries into *dissymmetries*, which we understand as a proportional situation that is broken in an anomalous way mainly with pro secession arguments or by other threats. Differential facts would be the headquarters of this asymmetric federal company.

From a different point of view, the path of coercive federalism might come from both the rejection by other territories of privileges, as a specific perception of asymmetries, and as the central answer to a proposal of self-determination or institutional disobedience.

Our main thesis is that a balanced proposal of democratic asymmetrical federalism is possible where differences can be seen as enriching the whole.

## Key-words

Federal culture, Spanish virtual federalism, Constitution, dissymmetry, challenges, asymmetrical federalism, coercive federalism



## 1. Introduction

The debate about federalism in Spain has experienced an extraordinary growth in relevance in recent years. However, this approach has acquired a new dimension with the referendum of the separation of Catalonia scheduled for 9<sup>th</sup> November 2014.

The image of a triptych, which one could admire in the Prado Museum in the works of great artists like Velázquez, Murillo or the Bosco, illustrates our argument in a more visual or graphic context. The central panel features the consideration of the Spanish territorial system as an example of a federal state. Operating under this consideration, which we will describe as a *virtual federalism*, given that formal and constitutionally Spain does not have this feature, we will ask the question of which elements the Spanish territorial system resemble those of a federal state. Secondly, but perhaps more importantly, we will analyze steps that would be necessary in order to convert Spain into a federal State: the transition toward a federal State.

This transformation into a federal State can transpire in two distinct ways. Using again the image of the triptych, the viewer's gaze would shift to the two side panels, on each side of the center.

The first of these two contexts is developed by the territories which have differential facts and singularities of distinct characters (i.e. juridical, linguistic, economic, geographical...). The federal model that would respond to its aspirations would be an asymmetrical federalism. A brief dogmatic recapitulation of the characteristic principles of *asymmetrical federalism* will serve as a precursor to a subsequent description –based on this theoretical foundation- of the main challenges to asymmetrical federalism in a Spanish context. In the theoretical part of this chapter, we will introduce a neologism, *dissymmetries*, from which we will analyze the need to incorporate limits into the asymmetrical federalism proposal.

The second frame of reference in which this transformation to a federal system can occur, the other lateral panel, can be described as *coercive federalism*. The main protagonist in this context would be the central authorities, with the support of the other autonomous communities or territories that openly reject a privileged treatment offered based on the



presence of differential facts. A particularly important resource to coercive federalism is the deterrent measure against any reaction which presents a threat to the unity of the State.

In essence, this article attempts to reflect conceptually the most contradictory popular reactions to Spanish territorial organization: extreme asymmetry and pro-homogeneity coercion. It strives to communicate the doctrinal nature of the heated debate in which Spain currently finds itself. Separate from this popular polemic, our thesis aspires to build a concept of *democratic asymmetrical federalism* as a viable answer to this situation, however only if avoiding its malformations which we refer to as “*dissymmetries*”. This explanation will focus on identifying different pressures, through a dialectic approach to reflect upon the territorial issues in Spain.

## 2. Spanish virtual federalism

The first dilemma that we discuss reflects the tension between the current *status quo* and the future, whether to preserve the existing successful autonomous system (which would be more or less workable) *versus* the desire to adopt a federal system.

The long shadow of federalism has been cast over our State with different degrees of intensity from the very moment of the creation of the Spanish Autonomous System. However, we must recognize that the sole substantive reference to federation in the Spanish Constitution of 1978 is negative: Sec. 145.1 “Under no circumstances shall a federation of Autonomous Communities be allowed”. This has been described as the principle on “*non federality*” (González Trevijano 2014: 100). Nevertheless, it is very common that Spain has been considered federal, especially for academics: “Spain is a federation in all but name” (Elazar 1994: 222). The same argument has been made by other authors (Watts 1999: 30) or (Agranoff 1996: 386). According to Elazar’s description of federalism, “self-rule and shared-rule” (1987: 19), Spain could be considered as “federalism in the making” (Moreno 1999: 149), as “federalism with differential facts” (Aja 1999: 239), as “federal system in practice” (Burgess 2012: 19), as “federation-in-the making” (Palermo 2010: 12) or a protagonist of an “unfulfilled federalism” (Beramendi & Máiz 2004: 148-149).

Different substantive features of the Spanish territorial system support this conceptualization (Seijas Villadangos 2011a: 95): 1\ Spain has a system of shared powers



(sec. 148 and 149). 2\ the process of preparing Statutes of Autonomy has followed a covenant pattern with a keenly felt federal nature especially according to section 151.2. 3\ this federal nature is strengthened when we pay attention to LORAFNA, a Statute of Autonomy especially endorsed for the Navarra Foral Autonomous Community. 4\ the first final clause for closing the system of shared powers is very close to a federal proposal (sec. 149.3) “Matters not expressly assigned to the State by this Constitution may fall under the jurisdiction of the Autonomous Communities by virtue of their Statues of Autonomy”. 5\ the prevalence clause, (sec. 149.3) “State, whose laws shall prevail”. 6\ the system for controlling Autonomous Communities established by the Constitution is based on legal principles of jurisdiction. Sec. 153:

“Control over the bodies of Autonomous Communities shall be exercised by: 1. The Constitutional Court, in matters pertaining to the constitutionality of their regulatory provisions having the force of law. 2. The Government, after the handing down by the Council of State of its opinion, regarding the exercise of delegated functions referred to in section 150, subsection 2. 3. Jurisdictional bodies of administrative litigation with regard to autonomous administration and its regulations. 4. The Auditing Court, with regard to financial and budgetary matters”.

7\ finally, the Autonomous Communities participation in State decisions through the Senate (sec. 69), legislative process (sec. 87.2 and 109) or in planning general economic activity (sec. 131.2).

Having reconsidered these characteristics we can now argue that Spain is a *virtual federal State*, (Seijas Villadangos 2003: 457) according to the meaning of virtual, as “almost or nearly as described, but not completely or according to strict definition”. Consequently, we could consider “the federal appearance of the Spanish Autonomous system”. The hitherto backward-looking review of Spanish decentralization leads us to the next step. We will try to outline the main steps to complete a fulfilled federation, the *federal transition in Spain*.

In order to do so, we must first highlight that the origin of regionalization and our virtual transformation into a federal state is clearly driven by the pressure of certain territories (Catalonia, the Basque Country, and in the past the Canary Islands) in favor of their separation. Those territories are characterized by an impulsion to break away and disperse territorial organization (Burgess 2006: 18). For this reason one of the adjectives related to Spanish federalism is *centrifugal federalism*.



From a formal point of view, we have two alternatives: a constitutional reform or a constitutional implementation; or reframed in a federal sense, federal reform *versus* federal mutation (according to classic terms used in Constitutional Law). The former option will lead us to follow the regulated process fixed in Title X of Spanish Constitution, “too facile” if we pay attention to the last reform of sec. 135, against which scholars have argued for a long time (Ruiz Robledo 2013: 142, Seijas Villadangos 2014: 431). It is important to introduce the reform of this title so that the Autonomous Communities participation is included in future constitutional changes. The latter option would consist of interpreting the Constitution and the States of Autonomy in a federal way, through “deconstitutionalization”, a constitutional change without a formal constitutional reform. This option has been reinforced in the VIII and IX Legislatures (2004-2008/2008-2011) with the reforms of seven Statutes of Autonomy (Valencia, Aragon, Illes Balears, Catalonia, Andalucia, Castilla and León, and, finally, Extremadura) and by the absence of a consensus between the major political forces in Spain (Ortega 2005:53).

From a material perspective, the first proposal is to achieve a global consensus, with the same degree of support that the Constitution of 1978 received. That substantial change would have to include, at least, the following topics: identification of the federal States; a reform of the Senate in a symmetrical (USA pattern) or in an asymmetrical way, but never dissymmetrically. This asymmetrical reform means giving a qualitative application of differential facts, but never in a quantitative way. The essence of democracy is a change from quantitative items, number of votes, into qualitative decisions or policies. A transparent and stable system of intergovernmental relations and the inclusion of plural symbols in the State (plurinationalism) should be key elements in this reform. We now go on to argue that to achieve this transition three basics steps are required:

Firstly, *the creation of a federal culture*. The main target is to prepare civil society to assume the values of federalism connected to stability and unity. Political forces must communicate these ideas to the citizens in order to build a leadership culture linked to federal ideas. It would be a basic step that the federal approach and federal culture, would be able to gain the same support that, currently, nationalist culture enjoys (Burgess 2009: 8; Seijas Villadangos 2011b: 277; Bußjäger 2012: 24; Gagnon 2013:183-190).

Secondly, *a definition of the main characters and the main scenarios of federal evolution in Spain*. An advanced Spanish federal map would be focused on asymmetry, the union of functional



federalism and nationalist federalism, in a redefinition of the current autonomous system where differences would be minimized and linked only to real differential facts. With the slogan of “rolling back the States”, we would try to underline the advantages of recovering the common features of the central autonomous communities with a protagonist of national territories, close to a unitary federalism (García Roca 2012: 3). We are at the point when welfare of citizens must prevail, but such a drive would have to fight the strong desires of self determination that we find in some autonomous communities and the lack of confidence in federalism from the central autonomous communities. However, if the main challenge is making asymmetry workable and fair, we have to know the limits of asymmetry.

Thirdly, *translating the proposal to a legal challenge, especially at constitutional level*. The last point in this journey towards a Federal Spain is to consolidate it at constitutional level and, from the point of view of its legitimacy, with equally high degree of support which the present Constitution has enjoyed since its approval in 1978. (Cámara Villar 2012:24)

To federalize Spain does not mean weakening it, nor does it mean opening the door to disintegration or secession. Federalism means to emphasise union in a non centralized way. The resource of asymmetry is a tool for achieving harmonization, for managing the conflict, asymmetry is not an end in itself.

### **3. Asymmetrical federalism in Spain: the process of asymmetrical federalization**

Asymmetry has always been central to federal theory, but it was in 1965 when Charles D. Tarlton rediscovered the importance of linking federalism to symmetry and asymmetry. The pragmatic implementation of federalism has required the creation of different ways of adapting flexible federal principles to the complex reality of several States.

This work has two targets: first, to recover a theory about the meaning of introducing asymmetrical elements into a federal system. Second, to resolve the main problems that it could create, especially connected to the acceptance of the formula for a State, with special attention to the case of Spain.

The format of what follows is outlined briefly at the outset. The first section is a general assessment of approaches to asymmetry through the answers to different capital



questions: Why, What, How and How many asymmetries? The second half is a brief discussion about the main issues of the Spanish decentralization, using the concept of asymmetry and the useful methodology of dilemmas or antithesis.

### 3.1. Can a federal system be asymmetrical? A brief review of theory about asymmetry in federal context

Symmetry in federalism refers to sharing by component units, whereas asymmetry expresses the extent to which component units do not share in these common features. Tarlton posited that “weakness” is the key concept, the reference for analyzing asymmetry, (Tarlton 1965: 864). This pathology should be treated or should be integrated in the State, in a way of cohabitation. Apart from studying the different types of asymmetries and their consequences, the main discussion must show how important it is to design a compatible way of federalism which could include several degrees of asymmetry and their limits. Now, we will speculate, reframing Tarlton’s arguments.

*Why asymmetry?* The main reason for asymmetrical functioning of a decentralized State is to search for an instrument in order to accommodate the differences for achieving a stable State. States with a variety of cultures, languages and religions could find in asymmetry a *modus operandi* for managing them. But asymmetry can neither be regarded a priori as useless nor a panacea. With that considered, We’ll try to justify the asymmetrical resource in these first paragraphs: Why a theory about asymmetry? Why asymmetry?

*Why a dissertation about asymmetry?* Tarlton wrote three interesting studies about federalism and asymmetry: “Symmetry and asymmetry as elements of federalism: a theoretical speculation” (1965) (which is the core of our article); “Federalism, political energy and entropy: implications of an analogy” (1967) and “The study of federalism: a skeptical note” (1971), for which the Voting Rights Act, a law that consolidated the idea of unique citizenship in North America, was his main reference. From this academic point of view we could subjectively differentiate three main stages in the study of asymmetry: the beginning of the concept, in Tarlton’s works; the consolidation of asymmetry in the theory about federalism, in Agranoff’s volume and finally with Watts and Burgess’s works, two capital references for any comparative study about asymmetrical federalism,

We’ll try to solve the beginning and the end of asymmetry: legitimacy and challenges of asymmetry. Looking back to history, we can find special differences in political



organizations, and hence maybe the ancestors of asymmetry: *foedera aequa-foedera iniqua*, German hegemonic federalism (Seijas Villadangos 2003: 222-251). These types of differences were justified with the Latin expression *exceptio firmat regulam*, that we adapt to a theory about asymmetry in exceptions help to fulfill rules. We link the legitimacy of asymmetry with the need of searching for an instrument to link the different parts of a State. A *pragmatic* approach in seeking to join the different units in a State legitimizes asymmetry. This is very close to the main challenge of asymmetry. The aim of asymmetry is to *integrate the different units*, in search of stability.

The notion of asymmetry refers to the situation where some territorial units should be allowed some scope for reflecting on their specific characteristics and needs.

In an etymological approach to asymmetry, we must refer to the Greek word *ασυμμετρία* that means disproportion. In other words, asymmetry is a lack of symmetry that implies another element for making a comparison. This is an aseptic meaning: a situation where a heterogeneous element is introduced, breaking the proportionality of the parts, between them and in relation to the whole. A second meaning, in a pejorative sense, what we call *dissymmetry* – the prefix *dis-* expresses negation or completeness or intensification of an unpleasant or unattractive action-, will be applied to those situations where a proportional or symmetrical situation was broken in an anomalous or faulty way (i.e. for political pressures, the threat of secession or self-determination, the confusion between powers –if you have differences in culture, religion, language... you could reach more powers in economy, social services or foreign policy or more representatives in State institutions-). When a territorial organization is based on *dissymmetries* we have to speak about the pathology of federations, meaning the failure of them (Watts 2006: 109-115). Spanish centrifugal federalism has been based on *dissymmetries* many times.

In Constitutional Law asymmetry is a form of state organization where territorial units with political autonomy enjoy a differentiated constitutional treatment, legitimized for the positive recognition of having different types of singularities (linguistic, juridical, fiscal...) with respect to the other units of the State.

The main aftermath of asymmetry is the qualitative intensification of powers of one unit without reducing the powers of the others, *ad intra*, and the reflection of these singularities in the state institutions and intergovernmental relations, *ad extra*. A proper



asymmetrical Constitution must include limits to the positive asymmetries regulated by supreme law. Because asymmetry is no less essential to federalism than symmetry, it is fundamental to strengthen the stability of the system from the periphery, to enhance a basic symmetry we need asymmetry. By way of illustration, it is interesting to think about the Golden Mean and the columns of the Parthenon in Athens<sup>1</sup>. Connected to that issue we should think about the main limits of asymmetries: equality and solidarity.

*How can we describe asymmetry?* We wish to emphasize four features of asymmetry. Firstly, *singularity*: the root of any asymmetry has to be a differential fact that must not be shared with the remaining territorial units. Secondly, *identity*, it is not enough to speak about asymmetry to have or to create a differential fact. It is considered that an asymmetrical element is the channel to express the demands of citizens and its bond of union; thirdly, *gradual implementation and flexibility*: we could use asymmetrical arrangements according to the variety of situations that we could face. In other words, it could simply create more problems than solutions and it could be disastrous. In the development of policies or legislation according to an asymmetrical pattern, it is important to have some degree of flexibility within the constitutional system. Finally, *instrumental nature reflected in the Constitution*; linked to the essence of asymmetry, we stress its subsidiary feature, subordinated to fill other values and principles regulated in the Constitution and the reasons why it was adopted, namely, unity and stability.

The implementation of asymmetrical arrangements implies different measures concerning legislative powers, functions, distinct administrative status, Civil Law, Fiscal powers, representation in national parliament, reservations of posts in the national executive, language, distinct party system, religion or symbolism (Keating 1998: 196).

*How many asymmetries?* “Among the several states in a federal union, cultural, economic, social, and political factors combine to produce variations in the symbiotic connection between those states and the system” (Tarlton 1965: 861). We describe these types of factors as preconditions to asymmetry. We could simplify those types of preconditions of asymmetry to socio-economic and cultural-ideological. If we consider them separately, they only constitute a test of the differences that exist in a plural political organization, especially “federal systems”. We need to add the features that characterize asymmetry (*singularity, identity, gradual implementation, flexibility and instrumental nature reflected in the Constitution*) in order to consider them as asymmetrical.



Focusing only on asymmetries we distinguish different types, from a conceptual distinction that could be useful for a practical analysis: *De iure* and *the facto*<sup>II</sup>, political and constitutional asymmetries<sup>III</sup> (Watts 2006: 63), structural and relational asymmetries<sup>IV</sup>, quantitative types of asymmetry<sup>V</sup> or transitory and permanent asymmetries<sup>VI</sup>.

Implementing asymmetrical federalism and the different types of asymmetries is essentially a dynamic approach. Its instrumental nature reinforces this view. It is not a single dose medication. We have expressed this proposal through the use of asymmetry in the search for symmetry and stability. According to Friedrich, these fluctuating relations are the essence of federalism:

“Federalism is also and perhaps primarily the process of federalizing a political community, that is to say, the process by which a number of separate political communities enter into arrangements for working out solutions, adopting joint policies and making joint decisions on joint problems, and conversely, also the process by which a unitary political community becomes differentiated into a federally organized whole” (Friedrich 1968: 7).

Thus, asymmetrical federalism is a combination of differentiated relations and integrated relations, a recurrent revision, a process of negotiation and renegotiation.

### 3.2. Asymmetric federalization in Spain: main challenges

Following the brief theory assessments about asymmetry that we have made in this article, we will try to change the perspective by adopting a practical point of view, paying attention to the situation of Spanish decentralization. To complete that objective we have chosen a dynamic method consisting of expressing the main issues through a series of dilemmas, according to a dialectic way of thinking and a pragmatic understanding derived from the consideration of federalism and asymmetrical federalism, (Agranoff 1994: 84) as dynamic, non-static processes (Watts 1966: 15).

The following dilemmas should illustrate more details of our proposal. First, the map of federal implementation could be a mixture of two types of federalism (functional federalism and nationalist federalism), where the result would be a type of asymmetrical federalism. Second, the major problem in Spanish decentralization: the combination between equality and asymmetry, and finally a warning about the main risk of the process:



the proliferation of elements of divergence. A final reflection about asymmetries and dissymmetries would lead us to fix a framework and limits to a proposal of asymmetrical federalism as an answer to different arguments against asymmetry.

### *3.2.1. National federalism versus functional federalism*

In our attempts at sketching out the map of a future scene of a federal Spain, the only purpose is that of stimulating a debate on this issue; we will not advocate a particular model. Our line of reasoning is to propose a global idea that reflects our aim of searching for a workable proposal. The parameters we set are not to perpetuate and exacerbate old problems and, at the same time, not create new ones.

The fundamental issue is to link those parts of Spain with a strong nationalist feeling with the rest of Spain (ROS), which lacks this feeling, but at the same time maintaining their desire for the advantages of living in a decentralized system, in terms of democracy and social rights.

With the aim of accommodating linguistic, Civil Law and fiscal powers we could demand a federal pattern for the peripheries which support demands for autonomy: a *nationalist federalism*.

The rest of Spain could enjoy a functional federalism whose core elements were an efficient policy-making predicated on a basic equal status for citizens and which introduce the topic of equality and asymmetry. A functional federalism, especially in times of crisis, means a reduction of bureaucracy and institutions. At the same time, the cooperation between territories must increase in order to avoid superfluous duplication. Of course, intermediate administrative levels between citizens and states must be reduced or disappear.

### *3.2.2. Asymmetry versus equality*

Diversity is inherent every process of decentralization and whilst not necessarily negative, can cause the risk of unequal treatments among Spanish citizens. The risk of inequality can be easily understood by testing different policies in health policy, education or civil servants' salaries.

One of the most important issues in a federal State is to clarify what equality means. Can we talk about the same equality in a unitary State or in a federal State? What happens



with equality in asymmetric federations?

There are two references for comparison: constituent units and citizens, and two conceptualizations of equality: arithmetic equality and geometric equality.

Arithmetic equality postulates absolutely equal treatment under law. On the other hand, geometric equality requires differentiation of treatment according to real differences. This was Plato's main theory. If we apply this theory to constituent units, under an arithmetic equality all these units would be considered absolutely equal under the law. If we differentiate the legal status between them according to real differences, such as territorial size, population, tradition, language and religion we should apply a geometric concept of equality. The justice of this application depends on the reality of these differences and on the limits to the consequences of the assignment of that singular status.

In the case of individuals we have to reinforce the jurisprudential concept of "fundamental juridical positions" (STC 37/1987, FJ.10). That cryptic expression refers to the heart of equality, its essence. This is the only way for making that concept compatible with asymmetry. In that case there is enough room for differences, but not for discrimination among citizens.

Connected to the study of equality, we have to take a look at the interesting question of its perception. First at all, asymmetry can cause grievances among citizens. A demand for symmetry would be necessary for counterbalancing the situation. It is quite common that a phenomenon of policy contagion happens. It means that policy choices made in one territorial unit may be copied in the rest. This could lead to a surrealistic situation, like we will see in the next paragraph, when the goal of copying other Autonomous Communities is only *per se* an asymmetric element (if you have your own language, then me too).

Another very important issue linked to equality and asymmetry is that there is a dilemma with respect to the distribution of resources and the way the territorial units are financed. The richest units perceive that they pay the price of decentralization. This is the case of Catalonia that has been clearly reflected in the amendments to section 135 of the Constitution in its recent reform; as evident in amendment 12 signed by the Catalan Group: "The State will ensure that under no circumstances will alter previous positions per capita contribution to gross domestic product by each Autonomous Community over the final positions in disposable income per capita adjusted for prices". (*Official Bulletin of the Congress of Deputies*, 05/09/2011).



Catalonia, Western Australia, and a long list of constituent units in federal States feel exploited as a cash cow. Their usual answer is to propose to secede from Spain, Australia... because of the high burden they had carried in financing poorer units. In Spain we have on the table, for the new Legislature, the proposal of “Catalan Fiscal Covenant”, similar to “*Basque Country Concierto*” and “*Navarra Convenio*”. This is a proposal that can be included in a type of federalism that Watts called “fend-for-yourself” (Watts 2006: 45); this is a clear root of a pathology of federalism. We have to remember again the two clear limits to asymmetric federalism: unity and solidarity.

### 3.2.3. *Asymmetry for everyone versus designed asymmetries*

The formula of “*Coffee for everyone*” has been one of the most democratic elements of Spanish decentralization, also one of the most criticized. The current preoccupation is in the adaptation of this famous slogan to an asymmetrical context, “asymmetries for everyone”.

Any interested party can check the recent reformed Statues of Autonomy, *i.e.* Castilla and León, LO 14/2007, 30<sup>th</sup> November, where it will be evident that there are plenty of asymmetrical references, even in the traditional center of Spain. Such an investigation uncovers singular reasons for the autonomy: different proper languages, “leonés”, “gallego” sec. 5; a Charter of Rights for the Castilian and León citizens (Title I); new territorial organizations inside the Autonomous Community, with a differential fact (El Bierzo sec. 46.3) and the legal recognition of internal plurality that determines the need for phasing out economic and demographic imbalances between the provinces and territories of the Autonomous Community (D.A. 2.<sup>o</sup>). The time for asymmetries linked to differential facts (Aja 1999: 239) seems to have run out.

This is not the proper way to achieve federalism, but a choice for a failed formula. A federation is not a mechanism for manufacturing asymmetries, this path will lead to a disaster, and the system will start to crumble.

But, what can you do when political forces, especially those from the periphery, are boxing the State in and when the rest of Spain (ROS), in an effort not to be outdone, triggers further demands (*i.e.* Camps clause<sup>VII</sup>)? The strengthening of the integrative function of the State and horizontal cooperation are the main solutions.

We have to add another challenge, the dilemma between executive federalism and



participatory federalism. The statutory reform process and the constitutional reform have shown the absence of popular participation, for example the referendum on the Catalan Statute of Autonomy 18<sup>th</sup> June, 2006, which only achieved a 49 % participation. A federal model without the counterbalance of the people would be an autistic federalism.

### *3.2.4. Asymmetries versus dissymmetries: the need to set limits to asymmetrical federalism*

A reflection about asymmetry should be completed with basic guidelines about what happens associated with its environment. We describe it as dissymmetry: dissymmetry applies to those situations in which the absence of a symmetrical or proportional situation occurs in a faulty or defective way.

The origin of dissymmetry is linked to the absence of constitutional legitimization agreed by consensus as a reference and the lack of a differential fact. Moreover, the manipulation of and growth in what we consider events or consequences of those peculiarities and the invention of new asymmetries in territories without differential facts in an effort to imitate them would be considered as dissymmetries. Those differential facts are strictly limited to, in the Spanish case, linguistic, “foral” or special law and “concierto vasco/convenio navarro” systems of financing (Aja 2014: 331-349).

The development of dissymmetrical expressions leads to various attempts to convert those asymmetries into quotas of power: through the acquisition of strategic competencies unrelated to their peculiarities and into organizational consequences through drives to non proportional composition of central organs and into or the right of veto on important issues. In those cases we would move in the field of pathologies of federations. The main strategy to be attempted is to set limits to asymmetries and as discussed these refer to unity, basic equality and solidarity and they should be ruled by the Constitution.

## **4. Coercive federalism in Spain: the way of imposition by central organs**

Historical and traditionally conflicts between the center and the periphery have had three basic channels of resolution: negotiation, appeal to a tribunal and coercion of one party over the other (Aja 1985: 472). As an alternative to a dialogue path towards federalization, our constitutional order offers a clear way towards conflict resolution in regard of propositions which distance themselves from legality and democratic legitimacy



and which aim to change the constitutional order and its values. Various events have given importance to a constitutional precept, which has been relatively ignored by scholarship. With this proposal we are referring to article 155, related to *coercive federalism*.

*“Article 155*

1. If an Autonomous Community does not fulfil the obligations imposed upon it by the Constitution or other laws, or acts in a way seriously prejudicing the general interests of Spain, the Government, after lodging a complaint with the President of the Autonomous Community and failing to receive satisfaction therefore, may, following approval granted by an absolute majority of the Senate, take the measures necessary in order to compel the latter forcibly to meet said obligations, or in order to protect the above-mentioned general interests.

2. With a view to implementing the measures provided in the foregoing clause, the Government may issue instructions to all the authorities of the Autonomous Communities”.

The most recent context within which interest in this coercive dimension of federalism has been revived is in the calling for a secessionist referendum in Catalonia, to be held on 9<sup>th</sup> November 2014. The coming to power in 1999 by Ibarretxe in the Basque Country and his project regarding sovereignty amendments of the statute of autonomy (rejected by Congress on 1 February 2005) have also lead to a rise of importance of this article.

Away from the hypothesis, the reality is that only in 1989 the government of Felipe González, in the Resolution of Council of Ministers of 10 February, approved a request from the Canary Islands based on art. 155. The reason was the failure by the Islands of the implementation of the dismantling of a 15% tariff for goods originating in the European Community. A meeting between the two governments prevented the Senate from acquiring assent for processing procedure that would coercively limit the Islands’ autonomous powers.

From the normative point of view we would like to highlight the express provision of article 155, which came about as a consequence of constitutional reform, in 2011 (article 135) and the approval of the Organic Law 2/2012 regarding budgetary stability and financial sustainability. Its article 26 establishes measures for a forced compliance, in case



an autonomous community does not comply with certain demands related to financial sustainability and the reduction of public debt<sup>VIII</sup>.

The situation in Catalonia regarding the proposal of call for a referendum of self-determination, announced on 27<sup>th</sup> September, 2012, revives the necessity to study the essence and nature of what we might call coercive federalism.

#### 4.1. Definition and characterization of coercive federalism

Federal coercion, which in the case of Spain is State coercion, can be described following Hans Kelsen as “coercive action based on strict and collective liability and directed against a partial community of the Federation, as well as against individuals who make up that community” (Kelsen 1927/1981: 141). Spanish scholar Virgala Foruria (2005: 57), relates to the same issue as “the imposition from central organs of a composed state towards a territorial entity, politically autonomous, of fulfilling its constitutional duties”. This concept not only has been studied by European scholars, from the USA John Kincaid (2008:10) considers that “a federalism today can be described as “coercive” because major political, fiscal, statutory, regulatory and judicial practices entail impositions of many federal (i.e., national government) dictates on state and local government”. This description of coercive federalism includes a benevolent characteristic linked to the daily functioning of a composite state. However, what the Spanish Constitution considers state coercion is linked to an exceptional mechanism<sup>IX</sup> to apply in emergency situations of threat to state unity through the subversion of constitutional order and the violation of general interest.

The first aspect to explain when considering coercive federalism is the necessity for its constitutionalisation, i.e. it is important that it has been regulated in a norm at constitutional level. Less acceptable would be its regulation in ordinary laws. This characteristic of positivization rejects an application of coercive federalism only in practice and curbs its arbitrary use.

The reason for the insertion of clauses regarding coercive federalism is linked to the essence of composite state, the balance between unity and autonomy. Unity is a concept that draws from other principles of constitutional integration, such as solidarity, homogeneity, equality of rights and duty, a unified market, whose aim is to achieve a unitary and common constitutional order in those spheres of life which are linked to the essence of a



state (Cruz Villalón 1984: 57). When the territorial entities create obstacles to challenge the satisfaction of these norms the possible answer would be coercive federalism.

#### 4.2. References to coercive federalism in comparative constitutionalism

A breach of the constitutional obligations of territorial authorities in a composite state has had different responses, from the institution of federal intervention as a mechanism to maintain public order, to the extreme option of dissolving and abolishing the territorial unit. Between these two options, we can find the coercive federalism devised by German constitutionalism and integrated into the Spanish constitutional order.

The United States included in its Constitution a form of federal intervention (Gómez Orfanel 2005: 47), namely Article IV.4, in the event of public disorder and domestic violence. Legally it must be the Legislature of the constituent State or its executive which has to request such an intervention, but in practice it is produced without the request of the affected state. This is illustrated by a case that has gone down in history as “the Little Rock nine”, which followed the 1954 U.S. supreme Court decision that had declared school segregation on racial grounds unconstitutional leading to the decision by Eisenhower in September 1957, when to order the intervention of the federal army to guarantee the right of black students to enter the Little Rock School of Arkansas, against the will of Governor Faubus.

As regards content, essentially the Constitution of the United Mexican States is similar, where federal authorities are guarantors of the stability of a state, threatened by violence or foreign invasion or internal causes. Article 119 of the Australian Constitution acts much in the same way.

The radical option of responding to acts contrary to the Constitution or laws by a territorial unit of a composed state with its dissolution leads us to Italy<sup>X</sup>, Austria<sup>XI</sup> and Portugal<sup>XII</sup>.

German federalism has generated and consolidated the institution of coercive federalism (*Bundeszwang*) or Executive federalism (*Bundesexekution*). According to Kelsen, if a Member State does not meet the constitutional or legal duties, the application of state power and coercion is imposed, “regardless of the desire and will of the men, and it may eventually prevail against their desire and their will” (Kelsen 1925/2002: 165). “A coercive act of the union that goes against any of its member states and is performed in the event of



any breach of the duties imposed by the constitution or any statute thereof, issued on the basis of this constitution” (Kelsen 1925/2002: 355). I.e., the mechanism of federal coercion is designed as the most radical guarantor of the Constitution, once the judicial guarantees have failed. In Germany this clause was incorporated in the Final Act of the Congress of Vienna, 1815 (Articles 19 and 31-34), the Weimar Constitution of 1919 (art. 48) and the Basic Law of Bonn (Article 37), which has been incorporated into the Spanish Constitution.

#### 4.3. Justification and potential consequences of coercive federalism

The premise that justifies the application of an instrument of coercive federalism is the failure of the decentralized territory to fulfill its obligations arising from the Constitution and the laws. This breach must seriously affect the general national interest, an interest which must be linked to the welfare of its citizens, to the unity of the State and the fulfillment of its purposes. Thus, once a violation of a constitutional or statutory obligation has been observed, which generally carries with it a threat to order and security, the regional government is warned. This warning not being heeded, a stressful situation is produced that endangers public stability, and in consequence the *Raison d'État*, whereby measures to implement coercive federalism may be resorted to.

Whilst the Spanish Constitution is silent on the matter (Calafell 2000: 130-135), following Kelsen's *General Theory of State*, events that allow coercive actions are the following (Kelsen 1925/2002: 356): occupation of the territory of the rebellious State; requisition of food; occupation of government buildings, removal of state bodies, the arrest of those who resist and elimination of the rebels in case of encountering armed resistance. It should be pointed out that, even for Kelsen, these measures of state coercion were “primitive” in a radical sense, and their reading in light of the Constitution, in this case the Spanish Constitution, obliges their adaptation to constitutional principles and values. It is this circumstance that gives coercive federalism its two names: residual and subsidiary nature.

Because of this residual character the radical solution of federal coercion measures is only applied once legislative cooperation mechanisms have failed. Thinking in the Spanish actual situation, for example, the Catalan government could have been empowered by law to hold the referendum either by authorization under Art. 92 CE or by statutory reform,



backed by a previous constitutional amendment or by an appeal to Article 150 of the Constitution<sup>XIII</sup>. In addition, once the judicial intervention mechanisms had failed, in the case of Spain and Catalonia, with the judgment of contempt of the Constitutional Court of 25 March 2014 (STC 42/2014)<sup>XIV</sup> and the subsequent mechanisms of adoption of agreements between the executives had been exhausted, the path for using coercive federalism would be open. In respect of the second coercive federalism feature, constitutional requirements imply that all actions taken under the umbrella of coercive federalism are protected by the Constitution. Where appropriate for your application you need to check: first, that the particular case fits the constitutional definition of the offense; and second that, respect the procedural aspects of compulsive act are respected. We are facing a major legal problem, but this does give evidence of constitutional theory on political principles (Kelsen 1927/1981: 75).

#### **4.4. Declaration of sovereignty, the people of Catalonia's right to decide and coercive federalism**

Coercive federalism links theory and constitutional practice in an exemplary manner. So, the starting point is the *Declaration of sovereignty and the people of Catalonia's right to decide*, adopted by the Resolution of the Parliament of Catalonia 5 / X, 23<sup>rd</sup> January 2013<sup>XV</sup> (Castellá Andreu 2013: 172).. This point has been reached by a process whose main events can be summarized as follows:

The adoption of the Spanish Constitution of 1978, which was supported by 91, 09% of the voters in Catalonia.

The creation of the Catalan Statute of Autonomy of 1979, which was supported by 88.15 % of voters in Catalonia. In 1980, the first regional elections were held in Catalonia, the winner being the political group *Convergència i Unió*, with the political figure of Jordi Pujol, who would remain in office until 2003.

In 2003, a tripartite Catalan government led by the Socialists, promoted the reform of the Catalan Statute of Autonomy. In 2006, the Organic Law 6/2006 of 19 July amended the statute, in which the “uniqueness of Catalonia within the Spanish State” (Tornos 2011: 16) was recognized.



2010 regional elections, in which *Convergència i Unió*, with Artur Mas, triumphed, started an ideological process with the slogan *La Casa Gran del Catalanisme* (Catalanism's Big House), which was linked to the right to decision in Catalonia.

In 2012 the Catalan Parliament approved the so-called “fiscal deal,” whereby Catalonia would be granted financial peculiarities similar to those granted to the Basque Country, but which were subsequently rejected by the central government.

The new elections in 2012 opened the door to the debate in the Catalan Parliament on the referendum, for which consensus on the contents was reached in December 2013 by means of the question: *Do you want Catalonia to be a State? If so, do you want Catalonia to be an independent state?*

On January 23, 2013, the Parliament of Catalonia approved a Declaration of Sovereignty and the right for the People of Catalonia to decide.

Decree 113/2013, of 12 February, created the Advisory Council for National Transition. Among the main functions assigned to the Council is “to analyze and identify all possible legal alternatives to the process of national transition,” as well as to disseminate knowledge of the Council among the international community and identify supporters.

We are still in an evolving process of evolution of events, but the most relevant opinion in constitutional terms, Constitutional Court's Jurisprudence, as recently declared in the sentence of 25<sup>th</sup> March, 2014 (STC 42/2014), allow us to make the following assessments. The decision of the Tribunal holds around two main arguments: firstly, the impossibility of attributing sovereignty to a fraction of the Spanish people, “only the Spanish people are sovereign, exclusively and indivisibly” (FJ 3). It follows that under the Constitution, “one region cannot unilaterally call a referendum on self-determination to decide its integration within Spain” (FJ 3).

Secondly, the recognition by the Court that “the Declaration does not exclude the possibility of following constitutionally established channels to translate the political will expressed in the Resolution into a legal reality,” i.e. there is the possibility of a constitutional interpretation of the right to decide. From a negative point of view, the right to decide would be unconstitutional if it is proclaimed as a manifestation of a right to self-determination which is not recognized in our Constitution. It also would be unconstitutional if were linked to the fragmentation of sovereignty of the citizens of each Autonomous Community, violating their attribution to the Spanish people in global terms.



From a positive point of view, an interpretation under the Constitution of the right to decide for the citizens of Catalonia is linked to it as “a political aspiration which can only be reached through a process adhering to constitutional legality with respect to principles of “democratic legitimacy,” “pluralism” and “legality” (FJ 4). The “right to decide expresses a political aspiration subject to being defended under the Constitution” (FJ.4). The means to do so must be the reform of the Constitution, the Legislative Assembly of an Autonomous community has the legitimacy to promote such reform (Articles 87.2 and 166 Constitution) “and the Spanish Parliament should participate in considering it”<sup>xvi</sup>.

We can describe the response of the Constitutional Court as legally correct but politically complex. In the possible event of the process moving outside of channels designed by the Constitutional Court, the path to coercive federalism would be opened. Only then can we build a rigorous theory about it. At this point of our discourse we must remember that coercive measures are not our favorite, but they provide us with greater legal certainty. And, at the end of the day, it is the main argument of our constitutional vocation and our faith in the State.

## 5. Proposal and final reflection

Following this reasoning and applying it to a brief discussion of the quality of asymmetrical federalism in Spain and the possible application of coercive federalism mechanisms, certain interesting conclusions are reached:

We have developed the asymmetrical federalism theory, adding the category of *dissymmetry*. *Dissymmetry* can be applied to those situations where a proportional or symmetrical situation was broken in an anomalous or faulty way (i.e. for political pressures, the threat of secession or self-determination, the confusion between powers –because you have different culture, religion, language... you could reach more powers in economy, social services or foreign policy or more representatives in State institutions-). The risk of falling into a pathological federalism, founded in *dissymmetries*, is too high. All deceived federations could corroborate this premise.

We have suggested a list of stages for what we have called “the Spanish transition to federalism”: firstly, *to create a federal culture* where the main target is to prepare civil society to assume the values of federalism connected to stability and unity. Political forces must



communicate these ideas to the citizen in order to build a leadership culture linked to federal ideas. It would be basic for that federal proposal that a federal culture would be able to gain the same support that, currently, nationalist culture enjoys. It is crucial to emphasize the importance of limits. The essence of federalism -unity and self-government- is not compatible with secession.

Secondly, a *specification of the main characteristics and the main sceneries of the federal evolution in Spain* where an advanced Spanish federal map would be focused on asymmetry, a union of a functional federalism and nationalist federalism, in a redefinition of the current autonomous system where the differences would be minimized and linked only to real differential facts. With a slogan of “rolling back the States” we would try to underline the advantages of recovering the common features of the central autonomous communities without forgetting the importance of national territories. We are in the moment when the welfare of citizens must prevail. Such a redefinition would have to fight with the strong desires of self-determination that we find in some autonomous communities and the lack of confidence in federalism from the central autonomous communities. The main challenge is making asymmetry workable and fair, so we have to know the limits of asymmetry.

Thirdly, *translating that proposal to a legal challenge, especially at the constitutional level.* The last point in this journey towards a Federal Spain is to consolidate it at a constitutional level. This process must have the same high degree of support which our present Constitution has enjoyed since its approval in 1978.

Our last reflection refers to how difficult it is to find comprehensive answers to the questions raised by asymmetrical federalism. But this is not a valid excuse to stop trying. Our dilemmas or opposing paradigms may have contributed to this effort. One of the most drastic potential solutions is based on the principles of coercive federalism. This is a legal response whose greatest virtues are its constitutional recognition and deterrent effect. Now, we can see our triptych differently, assuming the role of each part may vary but all the elements are present to form a complex whole.

“The concept of federalism has been a major panacea in Western political thought for an incredible range of problems... Whenever events have seemed to demand cooperation and coordination, while interests and anxieties have held out for the preservation of difference and diversity, the answer has almost unfailingly been some form of federalism”



(Tarlton 1965: 874). In the future, it is possible for Spain to become federal, and this federalism could be an asymmetrical federalism based on a democratic dialogue, a “union forged by negotiation and renegotiation” (Keating 1998:213) and far away from coercion.

---

\* Professor of Constitutional Law, University of León, Spain.

<sup>I</sup> The architecture of the Parthenon, especially its columns, reflects the pursuit of symmetry through asymmetry. Thus, different distance between columns, its inclination towards the inside or to have a wider base offers a symmetric appearance in the view of a reasonable observer. The theory of the Golden Mean is one of the explanations that have been made. This comparison illustrates our position about the instrumental nature of asymmetry.

<sup>II</sup> *De iure* asymmetry refers to those asymmetries formally entrenched in constitutional level and in other types of laws, *i.e.* in the Spanish case, Statutes of Autonomy, so that territorial units are treated differently by the law maker. The *facto asymmetries* refer mainly to political practice or intergovernmental relations where asymmetrical preconditions are reflected. One of the most important the *facto asymmetry* is the existence of different territorial units, according the size or the population of each unit. Those preconditions produce a diversity of factors of power in every State, and reflect in the perception that everyone has of the others, supremacy and, on the other side, fear and distrust of the less powerful units.

<sup>III</sup> Very close to the former category, Watts has distinguished Political and constitutional asymmetries. Political asymmetry, which is a common feature in all federal systems, refers to relative influence of the various constituent units within a federation that arises from the impact of cultural, economic, social and political conditions. Constitutional asymmetry implies the constitutional assignment of different powers to different constitutional units, which is not such a common feature in many federal systems.

<sup>IV</sup> Structural and relational asymmetries are the result of considering the scope where they are implemented. Structural asymmetries are the result of a static analysis of a plural State and refer to the differentiated position of the territorial units due to different factors like population, race, culture, religion... From those conditions it's determined a singular position of those territorial units in the State which affects decisively the general policy. *i. e.* elections, fiscal policy... Relational asymmetries are the consequence of projecting those structural asymmetries *ad extra*. They determine the special status of a territorial unit. *i.e.* the bilateralism in the relations between the center and those States or Regions.

<sup>V</sup> The different degree of asymmetrical outcomes has generated quantitative types of asymmetry. For instance, a Constitution could provide an asymmetric assignment of powers to the various territorial units to increase provincial or regional autonomy. On the other hand, a Constitution, a sub-constitutional law or a political decision could establish an increase in national or federal powers over specific territorial units for some specific functions, *i.e.* very expensive powers like health care or education. This was a claim of several Spanish Autonomous Communities (*i.e.* Valencia, Madrid and Murcia), sustained from the summer of 2011. The consideration of Autonomous Communities, treated as responsible for the crisis and not treated as victims, has forced that situation. Nonetheless, this isn't new because in 2009, Canary Islands proposed to give back to the State the autonomous power over immigrant children. Times of crisis and economic difficulties are times for withdrawing to the State.

<sup>VI</sup> The existence of asymmetries which could be described as transitory or permanent is explained according to the circumstances of acceptance or refusal that generate the integration of differentiated elements inside the State. Time is the key question in these types of asymmetries. The different ways of reaching autonomy in Spain are an excellent example.

The permanent asymmetries are entrenched in the Constitution or at a sub-constitutional level, and its aftermath is to define the system qualitatively

<sup>VII</sup> D.A. 2.º, LO 5/1982, 1<sup>st</sup> July, (reformed LO 1/2006, 10<sup>th</sup> April) “1. Amendments to the law of the State, in general and at the national level, involving an extension of the powers of the Autonomous Communities shall apply to Valencia, considered in those terms extended its powers. 2. The Valencia will ensure that the level of self-government established in this Statute is updated on equal terms with other autonomous communities. 3. For this purpose, any extension of the powers of the Autonomous Communities which are not assumed in this Statute or have not been allocated to it, transferred or delegated to Valencia earlier will force, if necessary, to institutions of self-government legitimized promote appropriate initiatives to that update”.



<sup>VIII</sup> Art. 26, LO 2/2012, 27<sup>th</sup> April, Budgetary Stability and Financial Sustainability. It develops different coercive measures concerning to Autonomous Communities. Three cases: The failure in reaching budgetary stability and financial sustainability in the event of an Autonomous Community not complying with the provisions laid down in the LO 2/2012 about Agreement of non-availability of loans, the non-constituting of obligatory deposits established by article 25, or the non-implementation of measures proposed by the expert commission (article 26).

<sup>IX</sup> Spanish Constitutional Court, STC 49/1988, 22<sup>nd</sup> March, F.J. 31.

<sup>X</sup> Art. 126 Italian Constitution.

<sup>XI</sup> Arts. 100 and 146 Austrian Constitution

<sup>XII</sup> Art. 234 Portuguese Constitution

<sup>XIII</sup> Article 150.2 Constitution: “The State may transfer or delegate to Self-governing Communities, through an organic act, some of its powers which by their very nature can be transferred or delegated. The law shall, in each case, provide for the appropriate transfer of financial means, as well as specify the forms of control to be retained by the State”.

<sup>XIV</sup> “The Court accepts the merits of the appeal because the political nature of Parliament’s resolution does not exclude legal nature, further reinforced by producing legal effects”. (FJ 1). (available at [http://www.tribunalconstitucional.es/es/salaPrensa/Documents/NP\\_2014\\_026/2013-01389STC.pdf](http://www.tribunalconstitucional.es/es/salaPrensa/Documents/NP_2014_026/2013-01389STC.pdf) ) (access on 15<sup>th</sup> September 2014)

<sup>XV</sup> Boletín Oficial del Parlamento Catalán, n. 13, 24 January. (available at <http://assemblea.cat/sites/default/files/documents/sovereignty.pdf>) (access on 15<sup>th</sup> September 2014)

<sup>XVI</sup> On 18<sup>th</sup> and 19<sup>th</sup> September, 2014 the Parliament of Principado de Asturias Autonomous Community exercised that opportunity to push for a constitutional amendment, something unheard of in the Spanish constitutionalism (available at <http://anleo.jgpa.es:8080/documentos/Boletines/PDF/9A-1614.pdf>) (access on 25<sup>th</sup> September, 2014).

## References

- Agranoff Robert, 1994, ‘Asymmetrical and symmetrical federalism in Spain’, in de Villiers Bertus (ed), *Evaluating federal systems*, Martinus Nijhoff Publishers, London, 61-89.
- Agranoff Robert, 1996, ‘Federal evolution in Spain’, *International Political Science Review*, XVII(4): 385-401.
- Agranoff Robert (ed), 1999, *Accommodating diversity. Asymmetry in Federal States*, Nomos, Baden-Baden.
- Aja Eliseo, Tornos Joaquín, Font Tomás, Perulles Juan Manuel and Albertí Enoch, 1985, *El sistema jurídico de las Comunidades Autónomas*, Tecnos, Madrid.
- Aja Eliseo, 1999, *El Estado autonómico. Federalismo y hechos diferenciales*, Alianza, Madrid.
- Aja Eliseo, 2014, *El Estado autonómico y reforma federal*, Alianza, Madrid.
- Beramendi Pablo and Máiz Ramón, 2004, ‘Spain. Unfulfilled federalism (1978-1996)’, in Amoretti Ugo and Bermeo Nancy (eds) *Federalism and territorial cleavages*, John Hopkins University Press, Baltimore and London, 123-154.
- Burgess Michael, 2006, *Comparative federalism. Theory and Practice*, Routledge. London.
- Burgess Michael, 2009, ‘Federal political culture revisited: creating and sustaining federal political systems’, presented at the Annual Conference of the International Association of Centers for Federal Studies (IAFS), 17-19<sup>th</sup> September 2012, Canterbury. (available at <http://www.kent.ac.uk/politics/cfs/events/index.html>) (access on 24<sup>th</sup> August 2014).
- Burgess Michael, 2012, *In search of the Federal Spirit. New theoretical and empirical perspectives in comparative federalism*, Oxford University Press, London.
- Bußjäger Peter, 2012, ‘Federalism without federal values’, *Federal Governance*, IX(2): 9-26 (available at <http://library.queensu.ca/ojs/index.php/fedgov/issue/view/432>) (access on 24<sup>th</sup> August 2014).
- Calaffell Ferrá Vicente Juan, 2000, ‘La compulsión o coerción estatal (estudio del artículo 155 de la Constitución española)’, in *Revista de Derecho Político*, no. 48-49: 99-146.
- Cámara Villar Gregorio (ed), 2012, *Por una reforma federal del Estado autonómico*, Fundación Alfonso Perales, Sevilla.
- Castellá Andreu Josep María, 2013, ‘Democracia, reforma constitucional y referéndum de



autodeterminación en Cataluña’, in Álvarez Conde Enrique (ed), *El Estado autonómico en la perspectiva del 2020*, Universidad Rey Juan Carlos, Madrid, 172-202.

- Cruz Villalón Pedro, 1984, ‘La protección extraordinaria del Estado’, in Predieri Alberto and García de Enterría Eduardo (eds), *La Constitución española de 1978*, Madrid, Civitas, 689-717.
- Elazar Daniel J., 1987, *Exploring federalism*, University of Alabama Press, Tuscaloosa.
- Elazar Daniel J., 1994, *Federal systems of the World*, Longman, Harlow.
- Friedrich Carl, 1968, *Trends of federalism in theory and practice*, Pall Mall Press, London.
- Gagnon Alain-G., 2013, *Época de incertidumbres. Ensayo sobre el federalismo y la diversidad nacional*, Tirant lo Blanch, Valencia.
- García Roca Javier, 2012, ‘¿Reforma constitucional en clave federal?’, presented at the Konrad Adenauer Stiftung/Fundación Manuel Giménez Abad Roundtable September 2012, (available at [http://federalistainfo.files.wordpress.com/2012/11/garcia\\_roca.pdf](http://federalistainfo.files.wordpress.com/2012/11/garcia_roca.pdf)) (access on 19th August 2014).
- Gómez Orfanel Germán, 2005, ‘La coerción federal en el derecho comparado’, *Cuadernos de Derecho Público*, no. 26: 41-60.
- González Trevijano Pedro José, Nuñez Rivero Cayetano and Goig Martínez Juan Manuel, 2014, *El Estado Autonómico español*, Dykinson, Madrid.
- Keating Michael, 1998. ‘What’s wrong with asymmetrical government?’, *Regional & Federal Studies*, VIII(1): 195-218.
- Kelsen Hans (2002, Or. Ed. 1925). *Teoría General del Estado*, Comares, Granada-
- Kelsen Hans, 1927, ‘Die Bundesexekution. Ein Beitrag zur Theorie und Praxis des Bundesstaates, unter besonderer Berücksichtigung der deutschen Reichs- und der österreichischen Bundes-Verfassung’, in *Festgabe für Fritz Fleiner zum 60. Geburtstag*, Mohr Siebeck, Tübingen, 127 ff.
- Kelsen Hans, 1981, ‘L’esecuzione federale. Contributo alla teoria e alla prassi dello Stato federale, con particolare riguardo alla costituzione del Reich Tedesco e alla costituzione Federale Austriaca’, in *La giustizia costituzionale* (edited by Carmelo Geraci), Giuffrè, Milano, 73-141.
- Kincaid John, 2008, ‘Contemporary U.S. federalism: coercive change with cooperative continuity’, *Revista d’estudis autonòmics I federals*, no. 6: 10-36.
- Moreno Luis, ‘1999, federalization in making?’, in Agranoff Robert (ed), *Accommodating diversity. Asymmetry in Federal States*, Nomos, Baden-Baden.
- Ortega Luis, 2005, *Reforma constitucional y reforma estatutaria*, Civitas, Navarra.
- Palermo Francesco, Zwilling Carolin and Kössler Karl, 2010, *Asymmetries in Constitutional Law. Recent developments in Federal and Regional systems*, Eurac, Bolzano.
- Ruiz Robledo Agustín, 2013, ‘The Spanish Constitution in the Turmoil of the Global Financial Crisis’, in Contiades Xenophon (ed), *Constitutions in the Global Financial Crisis. A comparative analysis*, Ashgate, Surrey, 141-165.
- Seijas Villadangos Esther, 2003, *Configuración asimétrica del sistema de Comunidades Autónomas*, 2 Vols., Universidad de León, León.
- Seijas Villadangos Esther, 2011a, ‘La senda española al federalismo: garantías estatutarias del pluralismo territorial intraautonómico’, in Biglino Campos Paloma and Mapelli Marchena Clara (eds), *Garantías del pluralismo territorial*, CEPC, Madrid, 93-118.
- Seijas Villadangos Esther, 2011b, ‘Significado de los nuevos derechos en el proceso de eventual federalización del modelo autonómico. El grado de federalidad del Estado español’, in Matía Portilla Francisco Javier (ed), *Pluralidad de ciudadanía, nuevos derechos y participación democrática*, CEPC, Madrid, 257-283.
- Seijas Villadangos Esther, 2013, ‘Asymmetry as an element of federalism: a theoretical speculation fifty years later - readdress the Spanish case’, in López Basaguren Alberto, Escajedo San Epifanio Leire (eds), *The Ways of federalism in Western Countries and the Horizons of Territorial Autonomy in Spain*, Vol. 2, Springer Verlag, Berlin, 679-690.
- Seijas Villadangos Esther, 2014, ‘Respuestas constitucionales a la recesión económica’, in *Revista Española de Derecho Constitucional*, no. 101: 425-434.
- Tarlton Charles Dudley, 1965, ‘Symmetry and asymmetry as elements of federalism: a theoretical speculation’, *The Journal of Politics*, XXVII(4): 861-874.
- Tarlton Charles Dudley, 1967, ‘Federalism, political energy and entropy: implications of an analogy’, in *W.P.Q.*, XX(4): 866-874.
- Tarlton Charles Dudley, 1971, ‘The study of federalism: a skeptical note’, in Riedel James A. (ed), *New Perspectives in State and local government*, Xerox College Publishing, Waltham, 97-100.



- 
- Tornos Mas Joaquín, 2011, 'La sentencia del Tribunal Constitucional español 31/2010 sobre el Estatuto de Autonomía de Cataluña', *Istituzioni del federalismo: rivista di studi giuridici e politici* XXXII(1):13-46. (available at [http://www.regione.emilia-romagna.it/affari\\_ist/Rivista\\_1\\_2011/Tornos.pdf](http://www.regione.emilia-romagna.it/affari_ist/Rivista_1_2011/Tornos.pdf)) (access on 2<sup>nd</sup> September 2014).
  - Virgala Foruria Eduardo, 2005, 'La coacción estatal del artículo 155 de la Constitución', *Revista Española de Derecho Constitucional*, no. 73: 55-110.
  - Watts Ronald, 1966, *New Federations. Experiments in the Commonwealth*, Clarendon Press, Oxford.
  - Watts Ronald, 1999, *Comparing Federal Systems*, McGill-Queen's University Press, Montreal.