



RAFAEL ALIENA | MARÍA CRESPO | ELENA GARCÍA-CUEVAS | MARTA CEBALLOS
MIGUEL ÁNGEL MAÑAS | ESTEFANÍA MUÑOZ | VICENTE PECINO | CRUZ GARCÍA
MARÍA MONTERO Y LÓPEZ-LENA | JOSÉ MARCOS BUSTOS | JAVIER CARREÓN | JORGE HERNÁNDEZ

Decentralisation and social welfare policy in Spain's autonomic state

El proceso de descentralización en el estado autonómico español y la política del bienestar social

Elena García-Cuevas Roque*

* Profesora Adjunta. Departamento Métodos Cuantitativos e Informáticos. Unidad de Informática Jurídica.
Universidad San Pablo CEU. garcue@ceu.es

Abstrac:

Over 30 years after the Spanish Constitution was approved in 1978, the *Estado autonómico* or 'autonomic State' for which it provides has evolved in a series of phases coinciding with different legislatures of the Spanish parliament, culminating in the configuration of a new model of the State. The key players in this process have been the political parties and the Spanish Constitutional Court.

The tremendous impetus of the Autonomous Communities in matters of "Social Welfare" has played a key role in this intense, ongoing process of decentralisation. One of the hallmarks of modern democratic societies is their concern to reduce inequalities between people and to improve their quality of life, and governments have implemented a range of potent social policies.

Keywords: Nationalism, Autonomous Communities, Social Welfare.

Resumen:

Transcurridos más de 30 años de la aprobación de la Constitución española de 1978, el Estado autonómico en ella recogido ha sufrido una peculiar evolución constituida por diversas etapas, coincidiendo con las distintas legislaturas en nuestro país, hasta llegar a configurarlo como un nuevo modelo de Estado. En este proceso ostentan un especial protagonismo las fuerzas políticas predominantes y la jurisprudencia del Tribunal Constitucional.

En esta intensa y continua tarea de descentralización, cobra especial interés y relevancia el fuerte impulso que las distintas CCAA, otorgan al "Bienestar Social". Las sociedades democráticas modernas, se distinguen por una definitiva preocupación por la reducción de las desigualdades de las personas y la mejora de las condiciones de vida. A tal fin, las administraciones públicas ponen en marcha poderosas políticas sociales.

Palabras clave: Nacionalismo, Comunidades Autónomas, Bienestar Social.

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**1. Introduction**

The ongoing autonomic process is undeniably one of the most important current issues in Spanish politics. In view of the progressive achievements and conquests made in this field, it has become necessary to bring Title VIII of the Spanish Constitution into line with the new circumstances of Spain's nationalities or, more accurately the *Comunidades Autónomas* (Autonomous Communities) as the regions are known. Title VIII establishes a decentralised model for the State, but it is ambiguous and vague in a number of respects.

In this context, the pillars of the Welfare State are enshrined and regulated in the Spanish Constitution, the Regional Statutes of Autonomy and in the respective regional laws, as the provision of public services associated with Social Welfare is one of the main competences devolved by the State to the Autonomous Communities.

2. Constitutional regulation and the evolution of Spain's territorial structure

In the first place, the Constitution sets no limits on the number of the Autonomous Communities or deadline for their creation. Moreover, it does not impose the autonomic structure nationwide (art. 137), so the Autonomous Communities may cover the whole territory of Spain (as at present) or only a part of it (as was the case immediately after the transition to democracy until the early 1980s). Second, two different procedures exist for the formation of Autonomous Communities. The first, applied in Catalonia, the Basque Country, Galicia and Andalusia, requires a referendum on the autonomic initiative under art. 151.1 of the Constitution, in which case the five-year holding period for the assumption of additional powers referred to in art. 148.2 does not apply. The second procedure applied by the remaining Autonomous Communities is regulated in art. 143 and does not require a referendum, but is subject to the five-year holding period.

Finally, the Constitution does not expressly create or recognise the Autonomous Communities, which are formed via their Statutes as the basic law governing the organisation of the region concerned. The key point here is that the Constitution established variable requirements for the drafting and approval of the regional Statutes, which constitute the legislation that actually determines the extent of regional autonomy. Furthermore, two procedures exist for reform of the Statutes enacted under art. 151.

The Autonomous Communities are, then, far from uniform, although their differences may not on any account imply economic or social privileges (art. 138.2), and the contents of their Statutes vary widely within the framework provided by art. 148 and 149 of the Constitution. It is because of this that a "second division" of regions exists, to which only limited powers were originally devolved what was little more than an exercise in administrative decentralisation. These are the Autonomous Communities created under art. 143 and 146 of the Constitution. The "first division" regions (the Autonomous Communities created under art. 151.1) have substantially greater powers devolved under art. 149 of the Constitution.

In the initial phase, considerable differences existed between the so-called 'historic' Communities (Catalonia, the Basque Country, Galicia and Andalusia), the regions equated with them (Valencia and the Canary Islands) and the rest (see Constitutional Court Judgment 1/1982 of 28 January). Eventually, the devolution of powers was evened out by the *Pactos Autonómicos* (Autonomous Pacts) of 1992. These agreements were enshrined mainly in Basic Law 9/1992, of 23 December, by which additional powers were assigned to the regions that had gained their autonomy under art. 143 of the Constitution, and in subsequent Acts of the Spanish Parliament amending their Statutes. The twin aims of these measures were to expand the powers devolved to the "second division" Autonomous Communities (formed under art. 143) in order to align them with the art. 151.1 regions, and to enhance cooperation between the State and the Autonomous Communities. Since the 1992 Pacts, Spain's territorial organisation has undergone many vicissitudes, some of them highly controversial, and has remained a constant source of conflict.

The reforms of the Statutes of Autonomy undertaken between 1996 and 2004 practically levelled out the powers devolved to the Autonomous Communities, with some notable exceptions such as policing, which has not been devolved even to all of the historic (art. 151) Communities. In the area of the Welfare State, the Statutes of most of the Autonomous Communities created under art. 143 rightly include not only "social assistance" but also "social services" and "social welfare" policy among their exclusive powers. However, this competence is confined to "social assistance" in the majority of the art. 151 Communities, including the Basque Country, Galicia, Catalonia, Valencia and Navarre (see section 6 of this paper).

Finally, the 2004-2008 legislature saw the reform of the Statutes of Valencia and Catalonia in 2006 and the Balearic Islands, Andalusia, Aragon and Castile and León in 2007, as well as the creation of new cooperation mechanisms (cf. Pomed 2007: 109 ff). The reform proposed by the Basque Regional Parliament was rejected in 2005, however. The *Estatuto Político de la Comunidad de Euskadi*, known as the 'Plan Ibarretxe' after the Basque regional premier, was considered to enshrine a model that would not fit within the framework of the Spanish Constitution.

Finally, the new Catalan Statute of 2006 aroused heated debate; the Catalan model was copied by the new Andalusian Statute after the elision of certain aspects found to be incompatible with the model of the autonomic State.

3. Autonomy, Nationalism and Federalism

In the first place, the principle of autonomy is a general organisational or structural principle of the State (Constitutional Court Judgments 32/1981 of 28 July, and 4/1981, of 2 February) that entails a distribution of power between different entities. These are the State itself, in which sovereignty resides, the Autonomous Communities as politically autonomous entities, and the provinces and municipalities (local corporations) as administratively autonomous entities (art. 137). These entities form different tiers of government, and the Autonomous Communities thus “created” enjoy a clear pre-eminence over the municipalities and provinces. The existence of a legislative assembly in the Autonomous Communities evidently means their “political” nature must be recognised in the form of qualitatively greater political autonomy than the administrative autonomy of the local corporations as from the moment the regions are vested with legislative and governmental power.

In the general parliamentary debate of July 1978, Felipe González, Secretary General of the Spanish Socialist Party demanded that the Constitution should “define a framework for regional autonomy capable of providing a generous response to the aspirations and rights of Spain’s different peoples”. The PSOE, among others, proposed defining the new Spain as a federal State or at least as a State based on the federal principle. However, other parties, including the governing UCD, stressed the incompatibility of the federal concept with a State based on Statutes of (regional) Autonomy. As González argued, “Only when the optimum powers available to all of the territorial entities had been devolved to them would we arrive at a federal State”. Obviously, the autonomic process has since taken a different course.

Given the diversity of the 17 Autonomous Communities (and the two autonomous cities of Ceuta and Melilla), however, a “federal pact” between them similar to that existing in Germany, for example, appears unlikely unless the actual make-up of the Spanish Senate is “redesigned”. Meanwhile, the lack of uniformity between the regions has led to the constant use of the term ‘asymmetry’ (in phrases like “asymmetric model”, “asymmetric federalism”...) to refer to the so-called *hechosdiferenciales* (the exceptions differentiating the historic regions, in particular Catalonia). It has even been argued (Elorriaga 2011: 16) that this asymmetric model was enshrined in the Constitution from the moment of its approval, because it differentiates the channels of regional autonomy, avoids closing the list of powers that can be devolved to the Autonomous Communities, and establishes special provisions in relation to the *territoriosforales* (the Charter Community of Navarre and the Basque Country), the Canary Islands tax regime and the situation of the African cities of Ceuta and Melilla.

In this context, the term 'nationalism' suggests a federal structure. Nationalism entails a close attachment to local traditions and the distinguishing features of the nation concerned; we may recall that the regions with a higher political consciousness and separatist outlook in 1930 were precisely Galicia, the Basque Country and Catalonia. The Constitution largely frustrated the expectations of the two longest-standing nationalist movements (Catalonia and the Basque Country), because they believed its structure and dynamics curtailed the devolution of powers.

It has become common in Spain to speak of "peripheral nationalism" to distinguish these nationalist movements from "Spanish nationalism"; or to put this another way, to differentiate between the stateless nationalities and the Spanish nation (Béjar 2008: 13). However, we may still consider this matter in an optimistic light, following authors like Sevilla et al. (2009: 11), who argue that "Our system enjoys high levels of political and social legitimacy via the feeling of dual belonging that is both regional and national"; as the constitutional edifice is the shared work of the whole Spanish people and in it they have found their place in the European process, which is no small thing.

The similarities with "federalism" are obvious; the member states of a federation "form a league and subordinate themselves to the union of their peers for all common purposes without losing their autonomy in matters that are peculiar and proper to themselves," or, as Pi y Margall (2002: 115) puts it, they "establish unity without destroying variety or changing their nature as nations." For a discussion of federalism as a form of government and political integration, see Boogman and Van der Plaats (1980) and Requejo and Nagel (2011).

4. Some outstanding reforms

Leaving aside the controversy outlined in the preceding section, the Spanish Constitution is not formally federal, if only because the text itself declares that "Federation of the Autonomous Communities shall not be permitted under any circumstances" (art. 145.1). The reality, however, is rather different.

It is not for nothing that reform of the Senate was one of the four issues addressed in the "Report on amendments to the Spanish Constitution" of the Council of State (January 2006), following the consultations raised and proposals made by the Government. Among other matters, the Council of State proposed various reforms related with the functions of the Senate as the territorial Chamber and with its composition, among other matters (an excellent exposition can be found in Rubio and Álvarez in *Informe del Consejo de Estado sobre la reforma constitucional* published by CEPC, 2007).

The article 2 of the Constitution enshrines the unity of the Spanish nation on one hand, while recognising the plurality of the nationalities on the other, though these

are not mentioned in Title VIII, and it was in fact the Statutes of Autonomy that christened them as such. This lacuna has multiplied the activity of the Constitutional Court, which is never beneficial in a democratic society. However, this is nothing new. It is well known that the actual structure of the autonomic State has been developed fundamentally by the Court's jurisprudential contributions, along with other constitutional factors. For all of these reasons, the inclusion of the names of the Autonomous Communities and Cities in the Constitution was also addressed in point IV of the Council of State's "Report on amendments to the Spanish Constitution".

A new regime is also needed for local government, and this will obviously mean establishing the formal channels by which such a reform could be carried out. "Autonomy" requires that the actions of regional government will not be controlled by central government, and this excludes any kind of hierarchical dependence proper to a centralised organisation with respect to the Administration of the State. Hence, the acts of regional governments can only be challenged via constitutionally established mechanisms. Meanwhile, powers over Health have already been devolved (Royal Decree 1207/2006, of 20 October, concerning management of the Health Cohesion Fund), but other services such as the Administration of Justice and Prisons are still centralised. Further devolution would enhance the efficiency with which public services are delivered. After the Local Government Modernisation Act (Law 57/2003, of 16 December), an attempt was made to implement the *Proyecto-Sevilla* (a reform plan named after the former PSOE Minister of Public Administration, Jordi Sevilla) and the "White Paper on the reform of local Government in Spain" in order to progress with the Socialist Party's manifesto commitment to present a Local Government and Administration Reform Bill. The Project was abandoned when Jordi Sevilla was sacked in 2007, however.

With regard to the devolution of powers, political decentralisation was initially effected via the Statutes of Autonomy themselves. The Spanish Constitution provides for a regional centralised State, and the initial decentralisation of administration was not in fact proportional to the decentralisation of political power, which was much less intense at the outset, perhaps because of a certain centralist inertia in relations between Government and Administration. This situation was corrected by the 1992 Autonomic Pacts, the ensuing reforms of the Statutes of Autonomy approved under art. 143 of the Constitution in the sixth Legislature and the reform of the *Ley de Amejoramiento* (Navarre Charter Enhancement Act) during the seventh Legislature. Meanwhile, if the concept of solidarity referred to in art. 2 of the Constitution is to be expanded, it will be necessary to seek "institutional cooperation rather than subordination mechanisms". See Constitutional Court Judgments 237/1992, of 15 December and 109/2004, of 30 June, concerning the principle of territorial solidarity and balance.

The reforms of the funding system (Autonomous Communities Funding Act of 1980) carried out in 1997 and 2001 were a major step forward, as was the approval

of the Local Treasuries Act (art. 142). So, progress has been made towards political decentralisation, with regard both to the devolution of powers and services, and to providing the Autonomous Communities with sufficient funds to exercise the devolved powers. As a result, it can now be said that Spanish decentralisation has been the most intense and far-reaching in the European Union at least, in line with established federal nations like Germany, Switzerland, the USA, Canada and Australia. Even so this has not been enough to satisfy nationalist movements. Powers over the provision of social services and assistance (see section 6 below) have been devolved from the State to the Autonomous Communities, requiring an immense task of coordination. It could in fact be said that the delivery of public services and benefits associated with the Welfare State is the principal assignment that has been transferred to the Autonomous Communities.

Meanwhile, every effort has been made to establish a funding model that can be applied generally to all of the Autonomous Communities in order to avoid inter-regional imbalances and to assure the constitutional principle of solidarity (Law 50/1985, of 27 December, concerning regional incentives to correct inter-territorial economic imbalances, and the Inter-Territorial Compensation Funds Act, Law 22/2001, of 27 December). Finally, the Autonomous Communities have been allowed the maximum possible autonomy in the management of their finances. Despite all of these good intentions, however, numerous failings have been found in the application of the funding model, caused among other factors by the differing revenue structures of the Autonomous Communities.

We may affirm that it is only through a full-blown constitutional reform that some of these measures could be implemented, including, for example, the recurring proposal to reduce the powers enumerated in the Statutes of Autonomy to the simple rule that all and any powers not exclusively reserved to the State by art. 149.1 shall be exercised by the Autonomous Communities. This would require amendment of art. 149.3. Arguments are now beginning to be openly voiced in favour of constitutional reform to establish a confederate, or quasi-confederate model for the State, instead of changing its territorial structure without a general design via the reform of the Statutes of Autonomy. However, it is not likely that this step will be taken given the scant enthusiasm shown by citizens in the Autonomous Communities where reforms of this kind have been mooted. In this light, the general public does not seem ready to abandon the model established in the Constitution.

This raises serious issues. It is because of this that the Socialist Party has shied away from "opening the can of worms of constitutional reform" as it has been put, despite recognising the need and launching the political initiatives described above in order to seek agreement. Since the Statute reforms of 2006 and 2007, some now believe the "can of worms" has been opened, as the nationalists' proposals point to a new model of the State.

Given the developments described and the direction now being taken by the autonomic process, there can be no doubt that change is urgently needed unless powers are to be returned to the central government of Spain, but such retro-devolution by the Autonomous Communities also has its detractors, who argue that the scope of powers can sometimes be revised in federal States (as recently occurred in Germany), but it would be neither possible nor effective in Spain as the problem is for each part of the State (i.e. central government and the governments of the Autonomous Communities) "to exercise its constitutional powers" (Sevillaet al. 2009: 18). The problem in our view is that power must be vested at the closest level of government to the citizen capable of carrying out the relevant tasks effectively (principle of subsidiarity). (See section 6.2 of this paper).

To conclude this discussion of the possible amendments or reforms that might be made to the text of the Spanish Constitution, we cannot but refer to the "express" constitutional reform announced in 2011 by José Luis Rodríguez Zapatero, the former Spanish Prime Minister). This reform, which has already been approved, consisted of the introduction via art. 135 of the Spanish Constitution of a ceiling for public spending designed to reduce the national deficit by law. This measure also involves the Autonomous Communities, which are likewise bound by the deficit limit established.

5. The development of the Statutes

Spain has established a territorial model that has been progressively developed over a period of more than 30 years and is characterised by a dynamic process of evolution, as shown by almost 40 Statute reforms.

Despite the appeals to the federal model in Spain explained in the preceding sections, realism is needed, and we may conclude with Fajardo (2009: 143, 145) that it is unlikely such a model would allow the changes to the texture of regionalisation witnessed in Spain because it is essentially based on integration. Thus, the *Länder* in Germany's federal system, for example, may occasionally act in a self-interested manner, but they are all aware of the maxim that "the parts believe in the whole and fit into it," especially since the federal reforms of 2006. Unfortunately, this is not the case in Spain. Furthermore, not all federal States are the same. In fact, Spain has already surpassed the levels of decentralisation found in other supposedly federal countries.

The process of change that has affected Spain's territorial organisation over the last decade or so is a clear sign of a "country divided in its feelings of belonging" (Béjar 2008: 23), which has led some to argue that the State is incomplete and its structure an unfinished edifice. The situation is grave because the dysfunctions between the agents making up the Spanish State are far from trivial. Quite the

reverse, they affect key issues such as education, healthcare and the funding of scientific research. As a consequence, the debate surrounding improvement of the autonomic State was particularly fierce in the 2004-2008 legislature. Apart from the approval of the reformed Statutes in 2006 and 2007, this legislature also saw a significant step forward in the process of involving the Autonomous Communities more closely in the affairs of the European Union.

In this context, we may recall that the most far-reaching reforms of the Statutes of Autonomy were made after the approval of a Devolution Act pursuant to art. 150.2 of the Constitution and the incorporation of the powers concerned into the Statutes of the Autonomous Communities (see Constitutional Court Judgment 56/1990, of 29 March). Certain contents of the Statutes were also amended between 1997 and 1999, culminating in the reform of the funding system in 1997 and 2001. At present, the Statutes approved and the remaining Reform Bills regulate the respective changes.

While certain Autonomous Communities have provided for the existence of a mixed Commission of the legislative powers of the State and the Autonomous Community in certain circumstances, if any of them were to undertake the changes to their Statutes that their governments desire without previous agreement on fundamental issues such as powers or funding, the outcome would be more of a confederate cast than a federal model (Sosa 2007: 142 ff.).

The controversial new Catalan Statute of 2006 aroused heated debate in the context of the reform of the Statutes of Autonomy in Spain (art. 147.3 of the Constitution). There can be no doubt that the proposed Statute would have incorporated a different model into the Constitution had it not been modified by the Spanish Parliament. Moreover, the reformed Catalan Statute has exacerbated regional tensions, especially since Constitutional Court Judgment 31/2010, of 28 June, on an issue that was indisputably political (and financial).

Unfortunately, the judgment of the Constitutional Court, which firmly declared that "the Constitution does not recognise any nation other than Spanish nation", has not closed the debate surrounding the model of the State, and in general terms the situation remains the same as it was before the approval of the Catalan Statute. Once again, it will be "a political decision that will restore the lost legal and constitutional stability [*of the State*]" (Vallés 2001: 31).

6. The Welfare State and decentralisation

The provision of public services associated with Social Welfare is one of the main competences devolved by the State to the Autonomous Communities. For this reason, the regulation of Social Services undeniably demands special attention in this discussion of regional Statute reforms, as the "fourth pillar" of the "Welfare State";

along with health, education and the pension systems, within the framework of the Spanish Constitution, and in view of the management and delivery of services by the Autonomous Communities.

The Constitution of 1978 requires the public authorities vigorously to pursue Social Welfare, although the only express reference to "Social Services" is made in art. 50 in connection with the welfare of Senior Citizens (see Sagardoy, 1996). Such services are "an instrument to improve the quality of life, remove situations of social injustice and favour social inclusion"; via the public structures and services provided by Central Government, the Autonomous Communities and Local Corporations.

Taking into account the broad scope of the preceding definition, the Social Security System is structured to around two main goals, the first being the right of citizens to social protection, and the second the articulation of powers in this area within the framework of the Autonomous Communities (Cf. Sahuquillo, 2002: 115). The system can, then, be defined as the whole coordinated series of programmes, resources, services and benefits, activities and infrastructure used to provide social services to the population, which are in general managed by regional and local government. Or it could be defined in terms of basic or primary social services, and specialised or specific services requiring technical specialisation and the availability of special resources.

In accordance with art. 148.1 of the Constitution, the Autonomous Communities may assume powers over social assistance policy, and this provision has been shaped by the respective Statutes of Autonomy and Social Services Acts. As part of the process of decentralisation experienced by the autonomic State, Social Security and social assistance competences have gradually been transferred to all of the Autonomous Communities on an almost exclusive basis, while the State has kept only the power to regulate the conditions assuring the equality of all citizens of Spain in the exercise of their constitutional rights and performance of their constitutional duties (art. 149.1.1 of the Spanish Constitution). Meanwhile, the Constitutional Court ratified the competence of the Autonomous Communities in matters of "social assistance" in its Judgment 239/2002, of 11 December, in which it affirmed that they have such powers and, therefore, "may grant assistance of this nature to groups of people who are in an actual situation of need, even where they are in receipt of benefits and services provided by the national Social Security System, the only requirement being that such assistance should not interfere with the Social Security regime. Constitutional Court Judgment 239/2002 makes interesting reading, as it qualifies the notion of "social assistance" in various ways in relation to non-contributive aid and pensions established by the Regional Government of Andalusia.

In light of the above, the Autonomous Communities not only have legislative and regulatory power with regard to Social Assistance within the scope of their competences, but also executive power. The Autonomous Community is therefore the

appropriate for the activity of the Social Services, both in terms of regional planning, management of specialised facilities and provision of technical assistance to local Corporations, and at the level of coordination and supervision within the region (Sahuquillo 2002: 116), in accordance with art. 9, 10.1, 14, 39, 40, 49 and 50 of the Spanish Constitution. Meanwhile, art. 149.1.17 of the Constitution provides for the delivery of Social Security services by the Autonomous Communities. Finally, the Local Government Regime Act (Law 7/1985, of 2 April) assigns powers relating to the provision of social services, social benefits and social reinsertion to the municipalities within the framework of national and regional legislation (art. 25.2 K of the Act) and requires towns with a population of more than 20,000 inhabitants to provide social services (art. 26.1).

The Social Services laws examined below are inspired by the scientific discipline of social work and seek to advance the model of the Social State enshrined in the Spanish Constitution, seeking a commitment from government to find the necessary resources to establish a universal, guaranteed, high-quality Social Services system. Hence, the Constitution includes the principles contained in the Universal Declaration of Human Rights adopted by the United Nations in 1948, placing social and economic rights on the same level as civil and political rights. At the same time, the principles underlying Spanish social services legislation also hark back to the European Social Charter of 1961. The majority of the laws considered here have been amended with the passage of time to take account of the new realities affecting society in each of the Autonomous Communities (ageing of the population, the risk of individual or collective inequalities, situations of "dependence", changes in the labour market and so on). Other laws have, however, been drawn up *ex novo* to foster the creation of a network of infrastructures and services which have allowed the implementation of measures and development of social services nationwide, although with differing scope (Utrilla 2011: 135). The guiding principles or inspirations underlying all of this legislation include universality, public responsibility, coordination, decentralisation, solidarity, equality, mainstreaming, quality... Specifically, the principle of universality has evolved towards the consideration of the social services as subjective rights of the individual, while the principle of equality aims to guarantee a minimum level of standard benefits and the principle of mainstreaming refers to the integration of social measures within the mainstream of collective action (overall policy and projects)...

However, the reality of the principle of universality, which entitles all inhabitants of any region of Spain as well as temporary residents to the provision of social services, depends directly on the available funding. Meanwhile, the idea of Inter-Administration Coordination and Cooperation has been included in the social Services laws passed by each of the Autonomous Communities in order to guarantee minimum standard provision throughout the region and maximise the effectiveness of the Social Services system.

The concept of a “Portfolio” of social services is also expressly referred to as an instrument which determines the whole range of financial and technological benefits offered by the public social services network in Catalonia, the Balearic Islands, Cantabria, Navarra, La Rioja and other regions.

The basic social services objectives (Utrilla 2011: 136) may be inferred from these regional laws, including full and free exercise of individual and collective rights, guaranteed cover for social needs and the prevention of marginalisation, or in other words the guarantee of equality, adaptation of the system to changes in social reality and the full insertion of individuals and groups in community life.

Most importantly, however, regional social services legislation is the result of a major effort to integrate the contributions made by the agents concerned, seeking political and social consensus, as well as social cohesion and justice, which the Autonomous Communities can rightly say they have achieved.

6.1. Regulation of public social services in the autonomic State

The Autonomous Communities’ social services laws develop the competences established in their respective Statutes of Autonomy. Moreover, this legislation consists of formal Acts of the autonomic legislative chambers, which have been further developed in a swathe of secondary regulations.

The following discussion of the regional social services laws takes a chronological approach. Meanwhile, some of the Autonomous Communities first addressed this matter over 30 years ago, and usually these early laws have since been repealed by the current legislation.

The Basque Country passed its first Social Services Act in 1982, ahead of all the other Autonomous Communities. This act brought a certain consistency to this area and established a clearly modern, forward-looking approach to policy and administration. However, significant legislative changes affecting the system of public responsibility, in terms of both powers and funding, and far-reaching social change brought about by a profound industrial crisis and the increasing inclusion of women in the labour market, among other factors, made it necessary to reform this pioneering law, which was repealed by Law 5/1996 of 18 October. This act required that the social services system should contribute to economic development and job-creation in the Basque Autonomous Community, especially among those collectives for whom access to the labour market is most difficult. Nevertheless, the ongoing evolution of society in recent years (end of the industrial crisis, rising numbers of “dependent people” and so on) made it necessary to reform the existing regulatory framework, which was done by the prevailing Law 12/2008, of 5 December. The main change introduced by this act was the consolidation of a structured network of ben-

efits and services designed to respond effectively to the present and future challenges associated with social, demographic and economic change.

The second Autonomous Community to address the regulation of social services was the Charter Community of Navarre through regional Law 14/1983, of 30 March, later supplemented by regional Law 9/1990, of 13 November. Both of these laws contain very general mandates. However, they made room for considerable progress in the development of social policies, allowing implementation of "a series of public social protection measures designed to facilitate the development of individuals and groups, meet needs, and prevent or mitigate the factors and circumstances that cause social marginalisation and exclusion" (Stated Purpose of the prevailing Navarre regional Law 15/2004, of 14 December).

The Autonomous Community of Madrid also pioneered the regulation of social services, establishing the bases for the development of a social protection and welfare system in regional Law 11/1984, of 6 June, pursuant to arts. 26.1.23 and 26.1.24 of the Madrid Statute of Autonomy. The dynamics of social change again made it necessary to reform the regulation of social services, in particular with regard to the organisational model employed, the definition of competences and funding of the system. The result of this reassessment was Law 11/2003, of 27 March, which "establishes an open general framework for social services in order to provide a margin of flexibility and allow room for the uncertainties of the future" (Preamble to Law 11/2003).

The Murcia Region regulated social services via Law 8/1985, of 9 December, pursuant to art. 10.1.18 of its Statute of Autonomy, which attributes exclusive powers over matters of "welfare and social services" to the Autonomous Community. The prevailing Law 3/2003, of 10 April, establishes the Murcia regional social services system as the "coordinated series of resources, activities, benefits, facilities and protection measures employed in prevention, assistance and the social promotion of the citizens" (Preamble to Law 3/2003). This act is notable for its concern to raise the quality of life of social services users.

Catalonia began to regulate its social services system through Law 26/1985, of 27 December, subsequently amended by the regional Institutional Administration Act of 1994, which decentralised and coordinated the Catalan social services system; Legislative Decree 17/1994, which establishes the general right of the whole population to receive social services, as well as mooted certain proposals that were taken into account in drafting the current Law 12/2007, of 11 October. This act is based on the mandate contained in Chapter I, Title I of the Catalan Statute of Autonomy, which includes rights in relation to social services among the civil and social rights and duties established. The Catalan system of universal cover has been developed jointly by the *Generalitat* (Regional Government), Municipalities and social initiative.

Castile-La Mancha regulated and systematised the rather fragmented legislation existing at the time through regional Law 3/1986, of 16 April, pursuant to the mandate established in art. 31.1.20 of the Statute of Autonomy, which assigned full powers in matters of social assistance and services to the Autonomous Community. Law 3/1986 created basic programmes and specialist services taking a sector approach. Over the years, this act has succeeded in establishing sound public social services system. However, it was eventually repealed by Law 14/2010, approved in a climate in which social services have come to be seen as a fully recognised right of the citizen. This act establishes new criteria for both efficiency and effectiveness at the same time as focusing planning, management and the provision of social services on people's needs (section IV, Stated Purpose, Law 14/2010). Finally, it regulates the social services system territorially and establishes levels of benefits. At the same time, it provides for the benefits obtained from the information society and new technologies, as well as the latest scientific and research results, to be applied in this area.

In accordance with art. 10.12 and 70 of its Statute of Autonomy, the Balearic Islands approved its Social Action Act (regional Law 9/1987, of 11 February) pursuant to the mandate and principles established in the Spanish Constitution. The passage of more than twenty years has allowed significant progress in social policy, and the regional Social Services Act, 2009 (Law 4/2009, of 11 June) establishes and refines a series of public social protection measures designed to facilitate the development of individuals and groups of people, to meet needs and to prevent and mitigate the factors and circumstances that cause marginalisation and social exclusion (point I, Stated Purpose of Law 4/2009). In order to facilitate implementation, the regulation of social services, the system of authorisations, standards and certifications, competences and organisational powers has since been brought together in a single law, which also broadly regulates the inspections and sanctions systems.

The Principality of Asturias established a unified public social services system through Law 5/1987, of 11 April, in accordance with the social assistance provisions of the regional Statute of Autonomy. The act resulted in significant progress in social matters. However, social change since 1987 decisively affected social services policy, eventually requiring a legal framework. The new regional Law 1/2003, of 24 February, repealed the earlier act and addressed current needs by providing for a public social services system designed to achieve the best possible quality of life and levels of social welfare.

Extremadura recognised the need to regulate social services in regional Law 5/1987, of 23 April, based on arts. 6 and 7.1.20 of the Statute of Autonomy. Regional Law 5/1987 seeks to ensure basic welfare for all Extremadura's citizens via a series of measures designed to prevent and remove the causes of marginalisation. Despite economic and social development over recent decades, which has raised levels of welfare in the region to respectable levels, certain groups of the population remain at risk of social exclusion or actually marginalised. This situation has made it neces-

sary to design specific policies to assure equality of opportunity, which was precisely the purpose of regional Law 16/2010, of 21 December, establishing integrated measures in areas requiring special attention in the Autonomous Community of Extremadura. The act establishes the legal framework to support the common implementation of integrated action plans and programmes and the institutionalisation of coordination mechanisms for the agents concerned.

Pursuant to art. 30.13 of the Canary Islands Statute of Autonomy and the Canaries Public Administration Regulation Act, the Autonomous Community has exclusive competence in matters of social assistance and social services, and over foundations and associations providing assistance and similar services in the Canary Islands. In this context, social services were specifically regulated in regional Law 9/1987, of 28 April. As may be observed from the Preamble, the system is eminently preventive, and its primary objective is the prevention and removal of the root causes of social marginalisation.

Art. 13 of the Andalusia Statute of Autonomy assigns exclusive competence to the Autonomous Community in matters of social assistance and social services, monitors, the promotion of youth activities and senior citizens services, community development and foundations. Law 2/1988, of 4 April, was subsequently approved to regulate, organise and plan an effective social services system. As its Stated Purpose suggests, this was a highly realistic act which was conceived as a keystone of the social welfare policy that would be implemented by the regional Government.

In accordance with art. 70.1.10 of its Statute of Autonomy, Castile-León has exclusive competence in matters of social assistance, social services and community development. This mandate initially took shape as the regional Social Action and Social Services Act (Law 18/1988, of 28 December), which established a rational structure for the provision of social services while allowing room for citizen involvement and social initiatives. As in other regions, the passage of time and the evolution of society (including in particular the ongoing ageing of Andalusia's population and its low population density) made necessary to enact reforms. This was done through the prevailing Law 16/2010, of 10 December, the purpose of which was to consolidate, strengthen, improve and adapt achievements in the field of social services.

In accordance with the exclusive competence for social assistance and mandates enshrined in arts. 31.24 and 31.27 of its Statute of Autonomy, the Valencia Region regulated social services in regional Law 5/1989, of 6 July. Eventually, the proliferation of new regulations and the passage of time made it necessary to begin drafting a new act to remedy the problems found with Law 5/1989. The new Law 5/1997, of 25 June, defined social services as an "integrated, harmonious, interdependent and coordinated system capable of surmounting the temporal limitations inherent in the annual nature of calls for aid and grants and the resulting breaks in public funding of provision (as awards are passed from one year to the next)" (Preamble to Law 5/1997).

In accordance with arts. 8.1.30 and 31 of the La Rioja Statute of Autonomy, the Autonomous Community has exclusive competence for social assistance and services. The first act to regulate social services in La Rioja was regional Law 2/1990, of 10 May. This was followed by Law 1/2002, of 1 March, which represented a big step forward with the systematisation, structuring and regulation of social services. The emergence of new social services models and other factors led to the drafting of Law 7/2009, of 22 December, which addressed initiatives related with "dependence" at considerable length, providing for the creation in La Rioja of a Personal Autonomy and Dependence System, along the lines established in the national Personal Autonomy and Dependence Act (Law 39/2006, of 14 October).

The Parliament of Galicia approved Law 4/1993, of 14 April, in accordance with art. 13.2 of the regional Statute of Autonomy. In fact, Galicia had already approved a regional Social Services Act in 1987 (regional Law 3/1987, of 27 May), which had proved an effective instrument to regulate services but was in need of reform in view of the evolution of the reality on the ground and the limitations of the text itself, especially with regard to the conceptualisation of its contents, the assignment of competences, the regulation of provider entities and volunteer social workers and the overall control of the system. Given the scope of the changes required, this reform required more than the mere amendment of the 1987 act, and it was for this reason that a new text was needed. The resulting Law 4/1993 defined social services as an integrated system, remaining in force until 18 March 2009. Social services in Galicia are currently regulated by Law 13/2008, of 3 December, as amended in art. 56.7 by regional Law 15/2010, of 28 December, establishing certain tax and administrative measures.

In accordance with art. 24.22 of its Statute of Autonomy, Cantabria began developing its exclusive competence for social assistance, welfare and community development via the regional Social Action Act (Law 5/1992, of 27 May) and continued with further legislation passed in 1999 and 2001 to implement specific measures to assist certain collectives. Meanwhile, a raft of Social Security functions and services were also devolved to the Autonomous Community. As it became evident that the complex thicket of regulation that had grown up was hindering efficient management, a new regional Social Services and Rights Act was passed in 2007 (Law 2/2007, of 27 March), which realigned the scope of protection provided in line with current conceptions of social citizenship.

Let us conclude this discussion of regional social assistance laws with Aragon, where the regional Social Action Regulation Act, 1987 prepared the ground for the configuration of a highly decentralised integrated social services system operating at the local level, which was consolidated by Law 5/2009, of 30 June, in accordance with the mandate established in art. 71 of the Aragonese Statute of Autonomy and the express provision for social welfare and cohesion included in art. 23.1.

6.2. *Decentralisation, coordination and funding*

The very diversity of the entities that may be competent in some way for matters of social assistance and the fragmentation of the relevant legislation can complicate citizens' access to social benefits, and far from solving this problem, the centralisation of services has rather hindered understanding of the realities and needs of users. In this light, legislators have sought to decentralise social services to ensure that management remains as close as possible to the citizen (principles of subsidiarity and proximity) and guarantee the principle of equity. As a consequence, the services offered in each Autonomous Community must be adequately planned and coordinated, and they must respond to the needs and resources actually existing. This in turn requires instrumental rationality in the implementation of the respective autonomic laws. The Catalan Social Services Act stands out in this regard, defining competences on the basis of decentralisation and subsidiarity, and providing for enhanced involvement, coordination and cooperation within the sector itself. Likewise, the Aragonese act displays a highly decentralised structure at the local level. In effect, the intention is to avoid the model of the centralised State in the management of a common good in order to ensure that power is effectively exercised at the closest level possible to the citizen.

The legislative fragmentation found in some of the Autonomous Communities and the decentralising measures implemented in others have resulted in the promotion of "integrated territorial plans" for urban and rural, which are designed for action in situations involving exclusion or the risk of exclusion (Utrilla 2011: 137) and include both financial and social measures.

As citizens become increasingly aware as their role as the "customer" in the provision of public services, they demand ever more assistance and service quality, greater transparency and accessibility on the part of the public administration, and improved efficiency and effectiveness in service delivery. It is not in vain that the objective of providing new and better quality public services appeared in all of the Socialist election manifestos of the 1980s and 90s. Thus, a greater insistence on the provision of personal services is observable from the mid-1980s on, especially with regard to social services and cooperation in the education and health services provided by the State and the Autonomous Communities.

The complex territorial nature of the Spanish State has translated into a plural network of Public Administrations (central, autonomic and local tiers), which demands the creation of flexible mechanisms for voluntary inter-administration cooperation in the implementation of social policies involving the Autonomous Community concerned and local corporations, and both of these tiers together in matters that fall within the remit of Central Government. Meanwhile, it is incumbent on public agencies at all levels to establish coordination mechanisms to ensure the consistency and efficacy of the Public Social Services System as necessary in terms

of public action on the ground to achieve a balanced development of provision guaranteeing equality of access to services for all citizens.

This highlights the need for a broad “institutional consensus” (Sahuquillo 2002: 121) involving all levels of the Administration, while leaving room for the involvement of social initiatives. It is, then, the *duty* of national, regional and local departments and agencies to cooperate and coordinate. It is by “bringing together commitment and loyalty at all three levels, each operating within the framework of its competences and powers” (Sevilla 2009: 214) that the performance of the tasks required by the citizens will be optimised. In order to improve citizens’ relation with the Administration, meanwhile, all of the public organisations concerned should “make a major effort to coordinate their activities and improve inter-administration reporting and communication mechanisms” with the help of the new information and communication technologies “and to enhance cooperation mechanisms” (Sevilla 2009: 215, who pointedly entitles his discussion of this problem *One citizen, three administrations*).

In order to meet the objectives of cooperation and proximity to the citizen, each of the Autonomous Communities will shortly set up its own Inter-Administration Social Services Board or Social Welfare Coordination Board as the body responsible for coordination between regional government and local entities, and each regional government will take action to coordinate its social services policy with its education, health, transport, housing and other policies. The objective is to achieve adequate decentralisation while achieving integrated action and mainstreaming respect for social needs.

As explained in the preceding section, the social services system comprises two tiers, namely primary assistance, responsibility for which lies generally with local government, and specialist assistance, which may be provided either at the level of regional or local government.

The autonomic legislation examined reflects a very similar structure and the underlying principles do not reveal any major conceptual differences; in itself evidence of a certain consensus with regard to the structure of social services, but this does not mean that any uniform model for provision exists (Sahuquillo 2002: 117-118). This diversity is to be found basically in the description of reserved matters, as well as the quantitative scope of services, levels of quality and even the conditions of access, so that in some ways it could be said that Spain in actual fact has 17 different models. Without going so far, there can be no doubt that there are still enormous differences between the services provided by the Autonomous Communities, and spending on measures to prevent social exclusion and combat poverty varies widely, although this may to some extent be justified by the unequal presence of the main risk groups in the various regions. For example, Andalusia displays significantly higher need indicators than most other Autonomous Communities. In short,

there is no equality between the regions. Though social services are proclaimed universal, it has rightly been asserted (Aznar 1996, cit. Sahuquillo 2002: 124) that they remain in a position of "weakness" compared to other rights and benefits, such as pensions and social security entitlements.

Meanwhile, increasing efforts are being made to meet the needs of especially vulnerable people, who require support to perform essential activities of daily life. A decisive step in the task of setting up a national network was taken with enactment of the Personal Autonomy and Dependent Persons Act (Law 39/2006, of 14 December), which provided for the creation of a Personal Autonomy and Dependency Assistance System with the cooperation of all tiers of government. The Act was a milestone in the development of the fourth pillar of the Welfare State.

The financing system for the Autonomous Communities is established in Law 21/2001, of 27 December. In general, the paucity of public funding for social services at all levels have prevented the development of a system capable of responding to the full range of social needs, and the social services appear to display the greatest gaps of all social welfare systems. The minimum level of protection is financially guaranteed by Central Government as a basic inter-administration cooperation mechanism, and the second level is established via a cooperation and financing regime between Central Government and the Autonomous Communities. Finally, the possibility exists for the Autonomous Communities to develop an addition third level of protection for their citizens.

Financing sources as such are diverse. Funds come from Autonomous Community budgets, municipal, district and provincial budgets, and the general national budget (earmarked contributions), intestate successions, where appropriate, and donations made by private individuals and entities, and by the users of facilities and services. The funding of the Autonomous Communities is a complex issue which we have no room to discuss in detail here. Suffice to say that a dual system was applied from the outset (see Consejo Económico y Social, 2011: 30 ff). On the one hand, the charter system applicable to the Basque Country and Navarre, which has remained almost unchanged throughout, is based on the fiscal autonomy of these Communities. They raise their own taxes and transfer an annual sum to the central State by way of consideration for public goods and services provided at the national level. On the other, the ordinary regime Autonomous Communities (i.e. all the rest) are financed partly out of regional taxes, a share in State-level taxes, and transfers. This system has been revised on a number of occasions to realign funding with the gradual devolution of powers and services to the Autonomous Communities concerned.

In theory these contributions should guarantee the funding necessary to assure adequate provision of social services and cover the costs arising. Different Administrations may also enter into framework agreements including formulas for joint management of services to facilitate financial cooperation.

However, as the territorial reach of social services has spread, however, the Autonomous Communities' spending has outstripped the resources assigned by the regional funding system, as the services provided and the resulting public spending are associated with the needs identified. Though this process has to some extent been corrected as result of the evolution of regional revenues, growing spending needs, particularly in education and health services, crystallised with the Personal Autonomy and Dependent Persons Act (Law 39/2006, of 14 December). This is likely to result in financial difficulties in the not too distant future, because the Act obliges the Autonomous Communities to expand the cover they provide (Cf. Utrilla, 2011: 154-155), which will require considerable funds that will have to be found by the Administrations concerned or raised by way of charges to beneficiaries. Despite the regional decentralisation of social services described above, much social spending in Spain is channelled through the financial benefits provided by the Social Security system (Utrilla 2011: 148-152).

Given the importance of the services provided by the Autonomous Communities, it would be desirable to design instruments to ensure the stability of regional finances in general, and the funding of certain essential services in particular. In the current economic climate, however, it seems more likely that the social services will suffer swingeing cuts in the general State budget. Meanwhile, the Autonomous Communities expect a "reduction in the portfolio of services", and the 2011 budget deficit will surely require sharp adjustments. These cuts will without doubt fall heavily on essential services like health, education and social services, which account for almost 80% of regional spending. The devastation wrought is, then, all too likely to cause a contraction in benefits and services, thereby undermining the Welfare State itself.

7. Concluding remarks

Given the developments described and the direction now being taken by the autonomic process, there can be no doubt that change is urgently needed unless powers are to be returned to the central Government of Spain, which today seems unlikely. The main debate concerning the Welfare State is currently whether to devolve additional State services, to "close" the process, or even to "recentralise" certain competences. The latter option would be dysfunctional and should clearly be rejected. Rather, it will be necessary to optimise the current distribution of competences in order to gain efficiency, effectiveness and equality, as argued below.

However, I wish to offer a positive view of these problems. If endeavours are focused on "achieving an efficient and rational territorial organisation of government, which acts from a position of openness, integration of different political goals, Europeanism (...), increasing attainment of democratic participation, mutual respect and good faith between institutions, and the assurance and extension of individual

rights as the fulcrum on which the action of government turns, without ignoring cultural peculiarities as a basic principle..."; it may be possible to find support for this contentious federalising drive. Contentions arise because both peripheral nationalists and centralists do not always see eye to eye with the federalists. It will therefore be necessary to seek a balance to ensure that the national peculiarities of the parts are not relegated to a subordinate position, and that these singularities do not fragment the unity of the whole. Each must rather enrich the other. This is the view of the Spanish State taken by Arroyo (2011: 12 ff).

Obviously, the political parties have key role to play in this difficult task, but no less so the citizens of Spain themselves. The current economic crisis has raised awareness of and concern about the excesses of Government in Spain, and this will do little to help consensus and compromise. Opinions with regard to the territorial structure of the Spanish State remain sharply divided, but whether the preferred option is the autonomic State, a federal State or a confederate State, only a generous, high-minded and trusting attitude to dialogue will bring us any closer to a reasonable, unambiguous agreement on shared objectives.

Extrapolating these considerations to the Welfare State, where decentralisation is a "must" given the principles of subsidiarity and proximity, a "Local Pact" such as that mooted some years ago appears all the more necessary. This would translate into agreements between the Autonomous Communities and municipalities to ensure that services are complementary and to establish a basis of mutual commitment and good faith. The complex structure of the Spanish State has given rise to a highly plural network of Administrations (central, regional and local government, not to mention social initiatives), which in turn needs flexible formulas for cooperation in the implementation of social policy.

It is only too obvious that the present economic crisis may have a devastating impact on the provision of certain services and eventually on the Welfare State itself. However, this means only that we must maximise our efforts in the laudable task of progressing towards an "integral" Administration that is closer to the citizen and more responsive to the needs of ordinary people, and that optimises the coordination and cooperation of the agents involved in the provision of services. To put this another way, we must seek with determination to achieve the Social State enshrined in the Spanish Constitution, working hand in hand with experts and practitioners in the discipline of Social Work.

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